



Development Management
Planning and Sustainable Development
Service

OFFICER REPORT – DELEGATED

Application number: PA21/07740	Expiry date: 23 September 2021
Received on: 29 July 2021	Neighbour expiry date: NONE CONSULTED
UPRN: 100041029722	Consultation expiry date: 16 September 2021
Legal agreement: NA	Site notice posted: NA
Departure: No	Site notice expiry: NA
Complies with Development Plan? Y/N If not, ensure you cover in the report how material considerations outweigh the plan?	NA
Is this decision contrary to local council recommendation? NA	

Applicant:	Mr K Jones Living Quarter Properties (Porth) Ltd
Site Address:	Land At Former Paradise Cove Hotel Alexandra Road Newquay Cornwall
Proposal:	Submission of details to discharge Condition 2 of Decision Notice C2/07/00913 dated 2nd August 2007
Application Type:	Discharge of conditions

Consultee representations:

Cornwall Council Lead Local Flood Authority (25 November 2021)

"On the basis of the CW plan attached (dwg 15273.001.A002), the proposed development is not identified at being at risk with the limited cliff stabilisation in the form of infilling measures to caves and cliff undercut areas as proposed and we therefore accept this is sufficient to allow discharge of Condition 2 as detailed below.

Condition 2. Prior to the commencement of works hereby permitted a detailed schedule for the cliff defence works shall be submitted and approved by the Local Planning Authority including the provision for the future maintenance to protect the development during its lifetime. the work shall be completed prior to the commencement of the development with the exception of the demolition works. Works and maintenance of the cliff defences shall be carried out in accordance with the approved details unless otherwise agreed by the Local Planning Authority. Reason: To ensure that the development is protected from cliff erosion for the lifespan of the building"

Constraints and designations:

Annual Average Daily Traffic 5000-9999

Distance from Road: 50

Area of Great Landscape Value Name: Watgate & Lanherne. Source: Cornwall Local Plan - 2016. Former Reference: 14

Area Susceptible to Ground Water Flood Flood Type: Superficial Deposits Flooding

Area Susceptible to Surface Water Flood Band: Less

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Airfield Safeguarding Zone MOD Name: St Mawgan. Restriction: All Development exceeding 45.7m in Height Above Ground Level. Consultee: Ministry of Defence

Airfield Safeguarding Zone MOD Name: St Mawgan. Restriction: All applications involving refuse tip, reservoir, STW, nature reserve, bird sanctuary or any flying. Consultee: Ministry of Defence

Airfield Safeguarding Zone Newquay Name: Newquay Cornwall Airport. Restriction: All Development exceeding 45m in Height. Consultee: Newquay Cornwall Airport

Airfield Safeguarding Zone Newquay Name: Newquay Cornwall Airport. Restriction: All applications involving major tree planting schemes, mineral extraction or quarrying, refuse tip, reservoir, STW, nature reserve or a bird sanctuary and all applications connected with aviation. Consultee: Newquay Cornwall Airport

Community Infrastructure Levy Parish: Newquay. Band: Band 3. Sub Zone: Other 'Urban' areas

Cornwall Wildlife Sites Name: Mawgan Porth to Newquay. Code: R2.3

Definitive Map Modification Order WCA Reference: WCA 604

Definitive Map Modification Order 10m WCA Reference: WCA 604

Definitive Footpath Route Code: 411/43/1. Category: Gold CP

Definitive Footpath Route Code: 411/37/1. Category: Gold CP

Flood Zone 2Type: Tidal Models

Neighbourhood Development Plans Name: Newquay. Status: Adopted/Town Frameworks. Date Made:

Parish Parish Name: Newquay

Public Right of Way 10m Buffer Route Code: 411/43/1. Category: Gold CP

Public Right of Way 10m Buffer Route Code: 411/37/1. Category: Gold CP

Site Allocations Policy: . Location: Newquay. Type: Broad area. Allocation: This is a broad area around the town to highlight that it's covered by a Site Allocations DPD. Follow web link for policy details.

Shoreline Management Plan Prediction: Projection of the extent of erosion to coastline at 2105 with no active intervention

SSSI Impact Risk Zones All Consultations:

Infrastructure: Airports, helipads and other aviation proposals.

Wind and Solar Energy:

Minerals Oils Gas Extraction:

Rural Non Residential:

Residential: Residential development of 100 units or more.

Rural Residential: Any residential development of 100 or more houses outside existing settlements/urban areas.

Air Pollution: Livestock & poultry units with floorspace > 500m², slurry lagoons > 4000m².

Combustion: General combustion processes >50MW energy input. Incl: energy from waste incineration, other incineration, landfill gas generation plant, pyrolysis/gasification, anaerobic digestion, sewage treatment works, other incineration/ combustion.

Waste:

Composting:

Discharges:

Water Supply:

Wind Turbine Safeguarding Zone Classification: Any wind turbine 11metres to blade tip or taller, or has a rotor diameter of 2 metres or more. Consult: Ministry of Defence. Site: Cornwall

Wind Turbine Safeguarding Zone Classification: All wind turbine development. Consult: NATS. Site: UK and Northern Ireland

Zones of Influence Natura 2000 Sites Site Name: Penhale Dunes SAC. Buffer Distance: 12500

Relevant policies, SPGs and Government guidance:

Not applicable.

Planning History:

Most recent first:

PA17/09504 - Certificate of lawfulness for proposed construction of 7 linked holiday villas with car parking and external stores for use 52 weeks of the year as per planning permission C2/07/00913, following demolition of the original hotel building – CLEUD issued January 2018.

PA16/02786 - Certificate of lawfulness to confirm that the development approved under planning approval C2/10/00933 can proceed subject to the discharge of outstanding planning conditions. Certificate refused.

PA15/08238 - Full planning application - Construct 10no townhouse residential dwellings and associated infrastructure. - Refused 4.11.2015.

PA14/03954/PREAPP - Pre-application advice for construction of 10no new dwellings. Closed advice given.

PA14/02090/PREAPP- Pre-application advice for proposal to construct 10no dwellings

on site, 6no terrace of 4 bed town houses. Closed advice given.

PA12/03299/PREAPP - Pre-application advice to construct 7no detached contemporary residential dwellings. Closed advice given.

C2/10/00933 - To obtain an extension of time of application 07/00913 (The demolition of existing hotel building and annexe and the construction of 7 linked holiday villas with car parking, and external stores for use 52 weeks per year.) to enable the original permission to be implemented plus insertion of a S106 enabling condition 3 of permission to be amended to allow normal residential housing. Inspection of cliffs undertaken to confirm condition 2 unaffected - Approved with Conditions - 19.01.2012.

C2/08/01122 - Alteration to planning conditions to omit planning condition number 3 - planning permission number 07/00913 ie erection of 7 dwelling houses, site of Paradise Cove Hotel, Porth, Cornwall. Application withdrawn.

C2/07/00913 - Full planning application - The demolition of existing hotel building and annexe and the construction of 7 linked holiday villas with car parking, and external stores for use 52 weeks per year - Approved with Conditions - 02.08.2007.

The original hotel on this site was demolished in 2008.

Condition 2.

2. Prior to the commencement of works hereby permitted a detailed schedule for the cliff defence works shall be submitted and approved by the Local Planning Authority including the provision for their future maintenance to protect the development during its lifetime. The works shall be completed prior to the commencement of the development with the exception of the demolition works. Works and maintenance of the cliff defences shall be carried out in accordance with the approved details unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that the development is protected from cliff erosion for the life span of the building.

Condition 2 is not a true condition precedent as it allowed for the demolition works to be carried out (which then occurred). Details pursuant to discharging condition 2 were submitted within the application supporting information relating to cliff stability had been submitted with the application documentation.

A report was submitted for the Environmental Assessment of proposed cliff line protection scheme for the Paradise Hotel and also an addendum report on proposed cliff line protection scheme for the Paradise Hotel with the 2007 application.

In order to commence the redevelopment of the site (in accordance with the 2007 consent) full details of the cliff stabilisation works to accord with condition 2 must be submitted to and approved in writing by the Local Planning Authority.

Appraisal/key issues and conclusion:

The assessment of this application seeking to discharge planning condition 2 of the 2007 is very narrow and focuses solely on establishing whether the submitted information on behalf of the applicant is acceptable or not.

Condition 2 states:

Prior to the commencement of works hereby permitted a detailed schedule for the cliff defence works shall be submitted and approved by the Local Planning Authority including the provision for their future maintenance to protect the development during its lifetime. The works shall be completed prior to the commencement of the development with the exception of the demolition works. Works and maintenance of the cliff defences shall be carried out in accordance with the approved details unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that the development is protected from cliff erosion for the life span of the building.

Wider planning context

As a refresh on the planning history and other matters relating to the cliff below the site, the applicant's agent supplied the following:

- A copy of the 2007 consent 07/00913
- A copy of the Certificate of Lawfulness PA17/09504 confirming the 2007 permission is extant
- A copy of the accompanying delegated officer report (PA17/09504) granting the CLEUD – 9th January 2018.
- A copy of the latest ecology surveys.
- PA20/03366 - Submission of details to discharge condition 6 (sewage and surface water drainage) in respect of decision notice C2/07/00913 (Pending a decision)

The 2007 consented works included:

1. Infilling of the caves with mass concrete (requires separate Marine Maritime Organisation 'MMO' approval)
2. Gunniting (spray concreting) the cliff face
3. Rock bolting
4. Netting

As it stands, if fully applied, the measures (1 to 4) above as initially set out would drastically alter the aesthetic nature of the beach / cliffs.

The applicant's agent set out to the LPA that they were not an advocate for undertaking the design proposal submitted to address cliff stability in the 2007 application, and the scheme engineers had been seeking to find an alternative scheme to minimise the impact. This has been achieved by only undertaking the infilling works and then fronting with stone to help minimise the visual impact. The applicant's engineers have calculated that this is sufficient for halting the regression of the cliff line, thereby complying with the instructive nature of Condition 2. The solution presented now is less intrusive to the cliff face than the details submitted with the 2007 application.

So this has led to the formal submission of the **PA21/07740 - Submission of details to discharge Condition 2 of Decision Notice C2/07/00913 dated 2nd August 2007.**

Process for determination

The nature of this type of application does not require our Service to consult the relevant Town or Parish Council or to notify neighbours.

However, as part of the process of assessing this discharge of condition application, our 'Flood & Coastal Asset Manager' Consultee has been formally consulted.

The initial advice (received 19th October 2021) sort clarification:

I have reviewed the various assessments/reports produced by John Grimes Partnership (JGP) and Crouch Waterfall (CW). Both consultants identify similar key risk areas of cliff weakness and primary mechanisms of failure which combine to create overall instability to the cliff mass. The primary risk comes from the ongoing landward migration of a number of sea caves of varying size, and the general undercutting to the cliff toe which then promotes instability in overlying rock blocks and columns. Additionally, there is identified higher level cliff instability due to more loosely bound material.

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In order to discharge Condition 2 a detailed schedule for the cliff defence works needs to be submitted together with provision for future maintenance for its lifetime. The submitted 'CW PORTH GEOTECHNICAL ASSESSMENT AND OPTIONS REPORT' April 2016, provides analysis of the various hazards, options to mitigate each hazard type and recommendation as to which option is preferred. Section 10.0 - Conclusions & Recommendations - from the above Report states "...The preferred options are discussed in detail in the following sub-sections. Our recommendation for the scheme as a whole is a combination of concrete infill and rock anchors to mitigate and protect against continued sea caving and cliff undercutting which is expected safeguard the majority of the site for a life span of approximately 100 years. It is also recommended an active netting system with rock anchors and shotcrete in some areas to provide the necessary support and stability to prevent large rock mass failure as well as local planar and wedge failures. This would safeguard the small areas of the site that are not addressed by filling the sea caves for a duration of 100 years provided that periodic inspections are undertaken and any required maintenance is actioned...."

This would appear to indicate for the cliff mass as a whole to be made stable in order to meet the requirements of the planning consent, a combination of measures as described within the report relating to the various hazard types (1 to 5) would need to be addressed together. The application PA21.07740 proposal identifies only two of these hazard types i.e. cave infilling and cliff undercutting covered by the CW Option 1.1 to address Hazard 1 which is also described in the letter of Justification dated 23/07/21.

Sufficient details relating to Option 1.1 to provide infilling to the sea caves and address undercutting have been provided and are acceptable along with associated schedule of inspection to provide for future maintenance for the lifetime of the development. However, it is not readily apparent from the submitted documents, that the consultants have altered from their original conclusion and recommendation that all hazards should be addressed in combination. The sea caves and cliff undercutting are accepted as primary risks to instability, but it is also apparent that the other "hazards" identified in the CW report influence the overall cliff instability, hence the recommendation for rock bolting and mesh/netting to these areas. Therefore, for Condition 2 to be discharged without these other elements, **a statement will need to be provided by CW** to confirm that filling to the sea caves and undercutting to the cliff (Option 1.1) as a stand-alone measure, is sufficient to provide protection from the sea and stability to the land for the lifetime of the proposed development.

As an informative: It should also be noted, the planning consent PA07/00913 predates review of the Shoreline Management Plan (2011), Newquay Neighbourhood Development Plan, the existence of the Marine Maritime Organisation (MMO) and general knowledge and understanding of climate change which has since tightened development criteria within the coastal zone so that what was once potentially deemed acceptable development, may no longer be so. The proposed infilling of sea caves and works to stabilise the undercliff may also now require further consents from the MMO if works will be below MHWS and Coast Protection Authority consent if the works are deemed to be a sea defence structure.

Subsequently, Cornwall Council received additional information from the applicant's surveyor 'Crouch Waterfall' and the applicant's agent respectively:

Feedback from Crouch Waterfall (applicant's employed surveyors) responded by updating their initial drawing Drawing 15273B.001.A02 (attached and originally issued in our report) shows a regression line with only the caves infilled (green dashed line). As the drawing states, this is indicative. In order to offer any further detail we would need to undertake a considerable amount of design and have a clear brief for the preferred option. We'd also need to review the site and see how much has changed in the intervening years, and have the GI required in our correspondence and recommendations.

Crouch Waterfall has identified that the anticipated regression line was included in their report and has attached a copy for ease of reference. Having looked back through the report it was included on page 69/80 (the first page of appendix E).

The 120 year regression line associated with only undertaking the cave infilling is shown as the green dotted line & gives substantial protection from a mass cliff failure and clearly protects the proposed development.

For avoidance of doubt the span of 120 years was used as this was the accepted timeframe for the "lifespan" of the development.

Following re-consultation with our Flood & Coastal Asset Manager, consultee, the final response of 9th December 2021 stated that:

On the basis of the CW plan (dwg 15273-001-A02), the proposed development is not identified at being at risk with the limited cliff stabilisation in the form of infilling measures to caves and cliff undercut

areas as proposed and we therefore accept this is sufficient to allow discharge of Condition 2 as detailed below.

Condition 2. Prior to the commencement of works hereby permitted a detailed schedule for the cliff defence works shall be submitted and approved by the Local Planning Authority including the provision for the future maintenance to protect the development during its lifetime. the work shall be completed prior to the commencement of the development with the exception of the demolition works. Works and maintenance of the cliff defences shall be carried out in accordance with the approved details unless otherwise agreed by the Local Planning Authority. Reason: To ensure that the development is protected from cliff erosion for the lifespan of the building

In the context of the details and plans submitted and formally assessed by our Consultee 'Coastal and Flood Asset Manager' then **there is no objection to discharging condition 2 of Decision Notice C2/07/00913 permission.**

- One informative that would be set out in the decision letter would state that 'The applicant is required to seek and obtain a separate Licence from the Marine Management Organisation (MMO) prior to commencing any works on the site or cliff'.

Recommendation:

Discharge condition 2 of Decision Notice C2/07/00913 dated 2nd August 2007

PLANS REFERRED TO IN CONSIDERATION OF THIS APPLICATION:

CW plan (dwg 15273-001-A02)

Informative:

The applicant is required to seek and obtain a separate Licence from the Marine Management Organisation (MMO) prior to commencing any works on the site or cliff.

Copies of decision notices and documents associated with the decision making process, where relevant, for the above applications can be found in the Council's on-line planning register using the following link and by entering the reference of the application you are interested in.

Link: <http://planning.cornwall.gov.uk/online-applications/>