

TOWN & COUNTRY PLANNING APPEALS

**(DETERMINATION BY INSPECTORS)
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**

APPEAL BY

Kingfisher Resorts (Studland) Ltd

against the decision of Dorset Council

**to refuse planning permission for the proposed redevelopment of existing
hotel to provide new tourist accommodation, including: 30 hotel bedrooms, apartments
and villa accommodation and associated leisure and dining facilities**

at

Knoll House Hotel, Ferry Road, Studland

PINS reference: APP/D1265/W/24/3348224

LPA reference: P/Ful/2022/06840

APPELLANT'S OPENING STATEMENT

No5
CHAMBERS

Birmingham · Bristol · London

1. Introduction.

- 1.1 The most important element of this appeal by Kingfisher Resorts is that it is made in respect of a proposed redevelopment. This is no proposal to introduce development on a greenfield site in the designated landscape but a significant regeneration scheme, that has evolved over many years, to replace the existing Knoll House Hotel at Ferry Road, Studland.
- 1.2 The redevelopment scheme was refused by the Council for five reasons. These may be summarised as follows:
- (1) An alleged unacceptable impact upon the AONB/NL and Heritage Coast due to scale, form and massing.
 - (2) The regeneration scheme had not demonstrated that it would not adversely affect the integrity of the internationally protected Dorset Heathlands and Poole Harbour.
 - (3) An acceptable surface water drainage scheme had not been demonstrated.
 - (4) The regeneration scheme had not adequately demonstrated that a Biodiversity Net Gain can be achieved on the site or that proposed mitigation measures are deliverable.
 - (5) Insufficient evidence had been submitted to demonstrate that the proposals will not result in damage/premature decline to trees and that the proposed landscaping within the site was appropriate and effective.
- 1.3 Kingfisher Resorts are experienced hotel and resort developers and operators. They have a reputation for successfully operating high quality hotels across the south and southwest of England, many of which are in sensitive locations. Moreover, they recognise the need to redevelop whilst not causing negative environmental consequences.¹
- 1.4 That experience feeds into the essential ‘redevelopment’ context for this appeal. The existing facility is tired and in need of redevelopment beyond merely “patching up”. This also affords the opportunity to significantly improve the environmental and ecological credentials of the site in recognition of the sensitivity of this location.

¹ [BR PoE 6.8]

- 1.5 The existing resort facilities are limited in attraction. Consequently, the guests principally use the Knoll House Hotel as a base from which to enjoy the great outdoors, in the form of the beach, the heathland and the other local tourist attractions. This necessarily has impacts upon a number of designated sites and associated features. The Proposed Development involves upgrading the quality of the resort experience switching the focus of the provision. This will make the resort an attractive destination in itself so that guests will increase their dwell time to experience its luxury facilities. This is a tourism resort model with which Kingfisher are fully familiar and experienced.
- 1.6 Unfortunately, the Council have failed to fully grapple with the uncontrolled operation of the existing hotel when assessing the impacts of the proposed scheme. This is perhaps partly demonstrated by the reduction in the number of issues now remaining live. In short, the proposed redevelopment is a marked improvement over the existing. This improvement is demonstrable in terms of its design, construction, landscape and visual impacts and ecological impacts in respect of onsite habitats and offsite designations.
- 1.7 In this opening we will briefly introduce the Appellant's case on the agreed main issues as identified in the Inspector's CMC Note (but in a slightly different order).

2. Whether the proposal would conserve and enhance the landscape and scenic beauty of the Dorset Area National Landscape.

- 2.1 The Appellant will call Richard Sneesby to explain the landscape and visual impacts of the proposed scheme. The first consideration is whether the proposed redevelopment constitutes "major development". In this regard the Council acknowledge that this is not simply a matter of size. Mr Sneesby will explain that the appeal scheme reduces, rather than increases, overall impact on the designated landscape. This has been achieved through the adoption of a landscape-led approach to the design and landscaping of the appeal scheme, elements that are wholly absent from the existing resort.
- 2.2 Overlapping with the landscape and visual impact evidence is that of the design of the redevelopment. Mr Mark Alkerstone will explain the iterative design ethos, how it has evolved over time and learned from extensive consultations (including a previously

refused redevelopment scheme). The new design consolidates development into cohesive and coherent areas as opposed to the existing random collective and the new resort buildings will have a similar footprint. Whilst some buildings will be taller, Mr Alkerstone will explain how the design has utilised several techniques to minimise the visual impacts. These include working with the natural topography, introducing extensive landscaping to help buildings assimilate into their surroundings, and using materials and a colour palette to complement the local environment.

- 2.3 Mr Sneesby will demonstrate that the landscape and visual impacts of the proposal are largely limited to long-distance views, are overall beneficial rather than adverse, and consequently the character of the area will not be detrimentally impacted by the proposal.²
- 2.4 For these reasons, the Proposed Development would conserve and enhance the landscape and scenic beauty of the National Landscape.

3. Whether the proposed scheme would be of an acceptable design

- 3.1 Design overlaps with the first identified main issue and will be comprehensively addressed through the evidence of Mr Alkerstone. As indicated previously, the proposed redevelopment scheme brings together a coherent landscape-led vision for the resort. It will consolidate development on the site which is currently comprised of a hotchpotch of scattered, unconnected, and incrementally developed buildings. Moreover, those buildings are of poor quality and in desperate need of repair and upgrade.
- 3.2 Significantly, the proposed design ethos has been expressly endorsed (twice) by the Council's own Design and Conservation Officers, who recognise that the existing hotel is a collection of tired buildings which have little or no architectural or historical value beyond the small central core and in need of investment and reinvigoration. The overall conclusion (which we will urge you to endorse) is:

² [PR PoE 6.70]

“The bold, modern design approach is considered the right one overall in order to avoid a similar collection of nondescript, disconnected structures or one where pastiche of some selected element is the underlying philosophy...”

4. Effects on the character of the Heritage Coast.

- 4.1 This largely overlaps with the previous identified main issue and will be dealt with as a component of Mr Sneesby’s evidence. In essence, as with the impact upon the AONB/NL, although the proposed redevelopment would change the appearance of the site, these changes would be positive for the Heritage Coast's character and not adverse.
- 4.2 The existing ad hoc development will be replaced by an appropriately considered and environmentally sensitive design. In addition,³ there will be a reduction in occupancy and vehicle movements, combined with environmental enhancements, to help protect and strengthen the special qualities that make this stretch of coast worthy of its heritage designation. This would mean that there will be a lower significance of effects on the seascape characteristics and tranquillity of the area.⁴

5. Effects on biodiversity, including whether it would have likely significant effects or adverse effects on the integrity of European sites.

- 5.1 Dr Rebecca Brookbank will address the ecological impacts of the proposed redevelopment and explain the numerous benefits that will ensue. The principal outstanding matter relates to potential recreational pressure impacts on adjacent designated sites (Dorset Heathlands and Poole Harbour). The Appellant proposes a quantifiable reduction in overnight occupancy compared to the existing hotel operation and the proposal includes additional beneficial controls to manage visitor impacts.
- 5.2 Key benefits of the proposal include the net reduction in overnight guest accommodation from 163 keys to 74 keys, the reduction in maximum dog numbers from 212 to 40 through a new permit system, and removal of 66 on-site staff accommodations. New boundary treatments to control access to sensitive areas, enhanced on-site recreational provision including circular walking routes along with

³ And covered by BR.

⁴ [BR PoE 6.72]

improved visitor information and management will also be delivered. These matters have now been largely agreed as is clear from the ecological and HRA SoCGs.

- 5.3 The Appellant will also adduce evidence from Mr Jenkinson, a specialist in minimising impacts upon protected habitats from dog walking. He will describe a suite of additional measures, that will collectively assist in reducing dog-related impacts upon the heathlands, which can be securely delivered by the appeal scheme.
- 5.4 Consequently, you (as the Competent Authority) can be satisfied beyond all reasonable scientific doubt that there will be no adverse effects on the integrity of the internationally protected Dorset Heathlands. The evidence will demonstrate that the redevelopment proposal will positively contribute to achieving European Site Conservation Objectives and fully comply with the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”).

6. Whether the proposed scheme would make adequate provision for drainage.

- 6.1 A proposed surface drainage strategy has been submitted to the Council which followed the removal of the Lead Local Flood Authority’s objection.⁵ The Council had raised some concern over the possible presence of protected species, namely Water Vole and Otter. Dr Brookbank has surveyed the drainage ditch and has confirmed that it is not suitable for these protected species.⁶ The Appellant understands the Council to be satisfied with this and this no longer remains an issue.

7. Effects on protected trees.

- 7.1 The application is accompanied by an Arboriculture Impact Assessment (“AIA”). The AIA acknowledges that demolition works will affect RPAs of trees T4, T6 and T26, but proposes specific protection measures. All demolition within RPAs will be done manually using hand tools under arboriculture supervision, with precautionary measures to minimise impacts.⁷

⁵ §2.36 of Read

⁶ §6.111 of Read.

⁷ For example, ground protection using cellular confinement systems will be installed; Trial holes will be dug to establish depth of existing surfaces and Detailed demolition method statement included in Section 4.1

7.2 The Council's outstanding concern relates to the impact during construction on existing trees, particularly T40, an oak tree located on the southern boundary. The Appellant will call Mr Cleverdon during the round table discussion to demonstrate how trees will be protected during construction to ensure their longevity where they are proposed for retention. The swimming pool can be progressed whilst protecting T40 and ultimately the retention of this oak tree will be a positive feature that will enhance the spa experience.⁸

7.3 A clear construction method statement will provide comprehensive tree protection measures including tree protection fencing and relevant supervision. This can all be controlled by condition. Similarly, the landscaping strategy can also be controlled by condition. Ultimately, although 29 trees will be removed, 134 new trees will be planted with a mix of advanced nursery stock and smaller specimens to be the subject of detailed specifications as discussed with the Council.

8. The Planning Balance.

8.1 The planning policy context and overall planning balance will be addressed by Mr Benjamin Read. He will explain how the Appellant contends that the redevelopment scheme is not 'major development' within the AONB/NL in the context of the NPPF. In essence this is because it is replacing an existing large tourism resort with another, with less impacts and significant environmental and ecological benefits. However, even if it were to be considered major development those benefits satisfy the exceptional circumstances and public interest tests.

8.2 Furthermore, Mr Read will explain how the issue with the Council over the C3 description of elements of the scheme is a confected problem. The appeal application was, and always has been, for the "*Redevelopment of existing hotel to provide new tourist accommodation including: 30 hotel bedrooms, apartment and villa accommodation and associated leisure and dining facilities.*" This was made clear throughout the application process, as it had been throughout the previous refused

⁸ Read, §6.108.

redevelopment scheme. It has never ever been a proposal for a market housing development in the AONB/NL, as the Council have always previously acknowledged.

- 8.3 Mr Read will explain that the appeal scheme represents a singular opportunity to make substantial improvements over the existing hotel, the guests' use of which is neither regulated nor controlled. The appeal scheme will bring environmental, ecological and economic benefits and represents an excellent example of a sustainable redevelopment proposal properly reflecting the sensitivity of its surroundings.

We will accordingly be inviting you to allow the appeal.

Paul Cairnes KC
Sioned Davies
No5 Chambers

11 December 2024