

**22/00757/FUL
NON MAJOR**

Mr C Martin

**PERTON
Cllr P Davis**

Kingswood Centre Barn Lane Kingswood Staffordshire WV7 3AW

Part-retrospective changes to adventure equipment facilities

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site Description

1.1.1 Kingswood Centre is an outdoor education centre comprised of accommodation buildings and outdoor activities, including a low ropes obstacle course, caving system, aeroball activity and quad track, accessed from Barn Lane to the east, which leads to Holyhead Road (A464). Whilst the entirety of the site is approximately 2.9 hectares, the area of the current application is a smaller area on the north side of Barn Lane, before it turns north and terminates in an overgrown two-track.

1.2 Relevant Planning History

2007 Outdoor childrens obstacle course, Approved subject to conditions [07/00146/FUL]

2002 Attachment of zip wire and support post to freestanding climbing/abseiling tower, Permitted [02/00392/FUL]

2001 Retention of freestanding climbing/abseiling tower, Permitted [01/00617/FUL]

2000 Retention of hardstanding to the quad track, Approved subject to conditions [00/01196/FUL]

2000 Certificate of lawfulness for formation of hardstanding for quad bike tracks, Refused [00/0055/LUE]

1999 Illumination of quad tracks, Refused [99/01100/FUL]

1999 Erection of six flag poles, Approved [99/00578/ADV]

1997 Retention of existing climbing wall, aeroball equipment and two shelters, Approved subject to conditions [97/00475/FUL]

1997 Excavations and construction of caving system, Approved subject to conditions [97/00237]

1996 Toilet block extensions, Approved subject to conditions [96/00766]

1995 Portcabins, Refused [95/00379]

1.3 Pre-Application Advice

1.3.1 No formal pre-application advice was sought, but the application is retrospective as it is submitted in response to a Planning Enforcement case.

2. APPLICATION DETAILS

2.1 The Proposal

2.1.1 The cover letter provided with the application states that the existing climbing tower at Kingswood Centre needed to be replaced. Due to the unsuitability of the existing tower and to avoid a disruption to the facilities, Kingswood built two new towers, comprising a zip line/abseil tower and a landing platform tower.

2.1.2 The western tower is 12m in height, with the take-off platform situated at approximately 10m. There are two zip wires travelling north-east, perpendicular with Barn Lane. The landing platform is approximately 4m in height. The side of the towers are naturally-coloured timber cladding with galvanised steel handrails. The take-off tower is topped by a mono-pitched roof with box profile sheet roofing. Each tower has a footprint measuring 3.5m by 3.5m.

2.1.3 The application also details the removal of two redundant towers (a zip line tower and climbing tower) which are no longer required following the installation of the new zip line take-off and landing towers.

2.2 Agent's Submission

2.2.1 A covering letter and photographs of the equipment to be removed have been provided with the application (both received 4/8/22).

2.3 Amended plans

2.3.1 The full extent of the proposed development was indicated correctly on the plan titled 3284-01-01 Application Boundary (received 4/8/22).

3. POLICY CONTEXT

3.1 Within the West Midlands Green Belt.

3.2 Core Strategy

Core Policy 1 - The Spatial Strategy for South Staffordshire

Policy GB1: Development in the Green Belt

Core Policy 2 - Protecting and Enhancing the Natural and Historic Environment

Policy EQ9: Protecting Residential Amenity

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

3.3 Adopted local guidance

South Staffordshire Design Guide [2018]

Green Belt and Open Countryside SPD [2014]

Sustainable Development SPD [2018]

3.4 National Planning Policy Framework

Part 12: Achieving Well-Designed Spaces

Part 13 Protecting Green Belt Land

4. CONSULTATION RESPONSES

4.1 Comments received

No comments from Ward Councillor (expired 2/9/22)

Perton Parish Council (received 2/9/22) No objections

Neighbour 1 (received 1/9/22): I wish to object to the application on the grounds below:

- 1.1 The towers are too high, The platform is level with our bedroom window, and this allows overlooking into our property, house and garden.
- 1.2 This is an issue raised in an earlier application (01/00617/FUL) by a previous owner of our property and others.
- 1.3 The covering letter from the Applicant states:
 - a) "The development is small scale in nature." I have to raise the question can a structure 14m in height and in use seven days a week be described as "small scale"? The application states that the upgrade of the towers is to enhance the usage of the site.
 - b) "The application site is well screened from residential properties by existing vegetation." The site is actually screened by largely deciduous vegetation, meaning that for a large part of the year there is no visual or screening from noise whatsoever.
- 2.1 Unacceptable noise levels. There are other further new developments on the site which have moved the events nearer to our property. These are not shown on the plans.
- 2.2 This has led to an increased level of noise which has become totally unacceptable, has an adverse effect on the enjoyment of our property and led us to leave home to avoid the noise. A normal level of noise during the day on a daily basis may be considered acceptable but we don't think noise of Zip Wires running and Instructors shouting commands until 8:30/900 PM and regularly every weekend is acceptable.
- 2.3 We noted noise levels on Saturday 27/9 from 10:30 until 17:30. On Sunday from 19:30 to 23:00. Monday 29/9 from 20:30 low level.
- 2.4 We have made a formal complaint to Environmental Health regarding noise and have kept a log of events.
- 3.1 May I request that time restrictions are introduced to restrict the usage of the Centre to more reasonable times?
In view of the anomalies and errors on the plans presented with the application may I request that a site meeting is arranged by the LPA so that interested parties may get a current view of the situation at Kingswood Centre. A Tower requested for demolition appears to be newly erected! There are new developments not included on the Plans.

In conclusion.

The objection to the Retrospective Planning Application is based on:

- 1) The tower is too high and allows a degree of overlooking into our property, particularly through a bedroom window and into the garden.
- 2) The noise level on a daily basis, seven days a week and into the evenings, to the extent that we are unable to have windows open, use the garden and need to alter our lifestyle to cope with the noise level is not something we should have to endure.

Environmental Health (received 21/10/22) Environmental Health have received complaints from neighbours regarding noise associated with the use of the zip line. Our investigations have demonstrated that noise from shouting and chanting whilst the zip line is in use can be clearly heard at a neighbouring property. As a result, in order to minimise the detrimental effect on amenity of neighbouring residential properties I recommend the following condition to restrict the hours of use of the zip line:

- The zip line shall only be used between the hours of 9:00am - 8.00pm Monday to Friday; 9:00am - 5:00pm Saturdays and 10:00am - 04:00pm Sundays and bank holidays.

Site notice: not applicable

5. APPRAISAL

5.1 This application was called into committee by Cllr Davis per the request of the objecting neighbours at The Old Church House.

5.2 Key Issues

- Principle of the development in the Green Belt/impact on the openness of the Green Belt
- Impact on neighbouring amenity
- Representations

5.3 Principle of the development/Impact on the openness of the Green Belt

5.3.1 The site is within the Green Belt, where under local policy GB1 the construction of new buildings other than for agricultural or forestry purposes is generally considered to represent inappropriate development. The supporting text to policy GB1 states that development within the Green Belt will normally be permitted where it is acceptable "within the terms of national planning policy". It therefore follows that for any development to be acceptable any proposal must comply with the provisions of the NPPF.

5.3.2 Paragraph 149 of the NPPF lists a number of exceptions to inappropriate development, part b) appropriate small-scale facilities for outdoor sport or recreation, nature conservation, cemeteries and for other uses of land which preserve the openness of the Green Belt and which do not conflict with its purposes; and part d) Limited infilling, alteration or replacement of an existing building where the extension(s) or alterations are not disproportionate to the size of the original building, and in the case of a replacement building the new building is not materially larger than the building it replaces.

5.3.3 The NPPF offers a definition of previously developed land in the glossary stating: Land which is or was occupied by permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.

5.3.4 Paragraph 137 of the NPPF goes on to state that, 'The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'.

5.3.5 The application retrospectively proposes removing the two existing zip line/abseil towers and replacing them just to the north with two zip line/abseil towers. Whilst the towers are at a longer distance from each other (75m versus 60m), and thus the connecting cables are slightly longer, I find that the proposed fits the definition provided within the

NPPF for an exception to inappropriate development, as outdoor sport or recreation that preserves the openness of the Green Belt and does not conflict with its purposes. However, it would be a condition of any approval that the existing zip line/abseil towers, located just to the south of those recently constructed, be removed within three months of any approval. After completing a site visit, it does appear that the older landing tower has already been removed.

5.3.6 The proposal is therefore considered acceptable provided the new development does not have a greater impact on the openness of the Green Belt and is compliant with Core Strategy Policy GB1 and the NPPF.

5.4 Impact on neighbouring amenity

5.4.1 In accordance with Core Strategy Policy EQ9, all development proposals should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution, odours and daylight.

5.4.2 Given the existence of two zip lining/abseil towers at Kingswood Centre just to the south of those that have been recently constructed, as well as the fact that the replacement towers are not materially larger or taller than the previous towers, I do not have concerns about the general amenity of surrounding neighbours being affected. However, it would be a condition of any approval that no additional lighting be installed.

5.4.3 The neighbouring property that has commented on the application also made a complaint to the Council's Environmental Health Division, citing the noise levels generated by the users of Kingswood Centre as a nuisance. Environmental Health subsequently installed noise monitoring equipment at the neighbouring property for a period of time. Upon reviewing the results of the noise monitoring, Environmental Health have responded with the comment provided within the Representations section of this report, which also recommends placing a restriction of the hours of operation of the zip wire. I have reviewed this proposed restriction with the LPA's Solicitor, who has advised that said restriction does pass the required Planning tests and restricting use of the zip wire to certain times would be enforceable by the employees of Kingswood Centre. As such, the recommended condition has been added below.

5.4.4 It is therefore considered that the proposals would raise no undue concerns in respect of neighbour amenity, so long as the operation of the zip wire is restricted to the hours suggested by Environmental Health. As such the development complies with Policies EQ9 and Appendix 6 of the Core Strategy.

5.5 Representations

5.5.1 A neighbour objection was received on 1/9/22 which focused on the location of the Zip Line overlooking the dwelling to the northeast, The Old Church House. The objection also noted that there are several anomalies/mistakes on the plans submitted and focused heavily on the noise generated at Kingswood Centre. Each of these concerns will be considered in turn.

5.5.2 Regarding the location of the Zip Line overlooking The Old Church House (according to the occupant of the dwelling) - I conducted a site visit on 1/9/22 and found there to be no overlooking of The Old Church House by the newly constructed Zip Line landing platform. Said platform is located approximately 75m to the south of The Old Church House and is

separated by an overgrown track with dense shrubbery and trees on either side. What I believe the applicants think they can see from their bedroom window is a smaller play area/low ropes course that has been constructed at the northeast corner of the Kingswood Centre property, which is approximately 35m to the west of the dwelling. In September, I could barely see the top of the timber play area/low ropes course through the trees, but it is feasible that when the trees are bare the structure may be more visible. However, at a distance of 35m from The Old Church House, which exceeds all requirements for distance between facing windows within the Core Strategy, it is my opinion that the amenity of the occupants of The Old Church House is not materially impacted by this play area/low ropes course. To clarify though, that structure is not being considered within this application and according to the applicant, a low ropes course has been in that location for approximately 18 years.

5.5.3 I did inform the objecting neighbours of my site visit and my belief that a structure 75m to the south would not overlook their bedroom window. Their Ward Councillor also visited the objecting neighbour and agreed with my contention that overlooking is not a concern. However, the neighbours do still believe that when the trees are bare, there is overlooking of their property from the Zip Line landing platform.

5.5.4 Regarding the notation that there are several anomalies/mistakes on the plans submitted, notably that one of the newly erected Zip Line towers is noted for demolition, after visiting the property I do not find this to be accurate. In my interpretation, the plans do accurately reflect the location of the former Zip Line towers, as well as those newly constructed.

5.5.5 There are areas within the eastern side of the Kingswood Centre property that are seemingly utilised for outdoor activities, which are not noted on the plans submitted. For instance, there are clusters of stumps to the east of the obstacle course/former dirt bike track. These stumps appear to be used for campfires and outdoor recreation and in my opinion do not classify as development under the NPPF.

5.5.6 Lastly, regarding the noise complaints, this is addressed within paragraph 5.4.3 above.

6. CONCLUSIONS

6.1 The application site is previously development land used for outdoor recreation purposes and the proposal would have no impact on the openness of the Green Belt given its size, height and location within an existing outdoor education centre. It will cause no material harm to the amenity of neighbouring residential properties provided that there is no additional lighting and the use of the zip wire is restricted to the specified hours. As such, I recommend the approval of this application.

7. RECOMMENDATION - APPROVE Subject to Conditions

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development shall be carried out strictly in accordance with approved drawings: 3284-01-01 Application Boundary, 3284-01-02 General Arrangement, 3284-01-03 Tower and Zip Line Elevations received 4/8/22.

3. The materials used for the external appearance of the zip lining/abseil towers are required to match that provided on plan 3284-01-03 Tower and Zip Line Elevations (received 4/8/22).
4. The approval of this application does not imply permission for any additional lighting surrounding the zip lining/abseil tower area.
5. The zip line shall only be used between the hours of 9:00am - 8.00pm Monday to Friday; 9:00am - 5:00pm Saturdays and 10:00am - 04:00pm Sundays and bank holidays.
6. The existing zip lining/abseil towers, located just to the south of those considered under this application and as noted on the submitted General Arrangement plan numbered 3284-01-02 dated July 2022 must be removed in their entirety within three months of the date of decision.

Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
4. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
5. To ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.
6. The site is within the Green Belt within which, in accordance with the planning policies in the adopted Core Strategy, there is a presumption against inappropriate development

Proactive Statement - In dealing with the application, the Local Planning Authority has approached decision making in a positive and creative way, seeking to approve sustainable development where possible, in accordance with paragraph 38 of the National Planning Policy Framework, 2021.

INFORMATIVE - The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.



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