

Appeal Decision

Site visit made on 7 January 2016

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 April 2016

Appeal Ref: APP/D0840/W/15/3134230

Menwinnion Residential Home, Lamorna, Cornwall TR19 6BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Able Care Ltd. against the decision of Cornwall Council.
 - The application Ref PA15/00425, dated 15 January 2015, was refused by notice dated 11 May 2015.
 - The development proposed is described as '4 sheltered housing'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used in the original application form and decision notice is not entirely clear, and I have considered the appeal on the basis that planning permission is sought for 4 sheltered housing units.
3. The Council explains, and the appellant appears to accept, that the development, would fall within Use Class C2 'residential institutions' as set out in Part C of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987, and I have considered it on this basis. Central to this is that care that would be provided to the residents of the units, and it is clear that the units would be functionally linked to the existing care home. Although a form of housing, this distinguishes them from dwellinghouses within Use Class C3.
4. The Council acknowledge that they cannot presently demonstrate an adequate supply of housing in line with paragraph 49 of the *National Planning Policy Framework* (the 'Framework'). Paragraph 14 of the Framework sets out in this situation that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or where specific policies (including, importantly in this instance, those relating to Areas of Outstanding Natural Beauty) in the Framework indicate that development should be restricted. I have approached the appeal with this in mind.

Application for Costs

5. An application for costs was made by Able Care Ltd. against Cornwall Council, which is the subject of a separate decision.
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Main Issue

6. The main issue is the effect of the development proposed on the landscape and scenic beauty of the Cornwall Area of Outstanding Natural Beauty.

Reasons

7. The appeal site is within the Cornwall Area of Outstanding Natural Beauty (the 'AONB'). Although several other designations also apply to the appeal site, namely that it is within the Penwith Moors Area of Great Historic Value, Penwith Moors Area of Great Scientific Value and Heritage Coast, the Council's case focuses on the effect of the proposal on the AONB, which I regard as the key consideration. The Landscape Character Assessment for the inland West Penwith area of the AONB, in which the appeal site lies, describes the landscape as characterised by small fields in agricultural use, dotted with farmsteads, cut by valleys with areas of well-established woodland.
8. Areas of Outstanding Natural Beauty are designated for the purposes of conserving and enhancing natural beauty, and Section 85(1) of the *Countryside and Rights of Way Act 2000* places a duty upon me to have regard to these purposes in this decision. Paragraph 115 of the *National Planning Policy Framework* (the 'Framework') sets out that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in these respects.
9. Policy CC-1 '*Protection of Landscape Character*' of the saved *Penwith District Local Plan* (the 'Local Plan') prevents development that would result in significant harm to landscape character. The *Cornwall Area of Outstanding Natural Beauty Management Plan 2011-2016* sets out that any necessary development within the AONB must be high quality sustainable development which addresses landscape sensitivity and is compatible with the distinctive character of the rural landscape.
10. Originally a traditional rural building, Menwinnion has subsequently been much altered and extended. It is accessed via a single track lane off the B3315, which turns into a bridleway shortly after the vehicular access to Menwinnion. A low-level traditional stone retaining wall demarcates the boundary of Menwinnion's parking and lawned grounds to the front of the property.
11. The appeal site is a small parcel of land located reasonably close to Menwinnion and is within the same ownership. Miscellaneous items apparently related to the care home were on the site when I saw it. However, it is set on a slightly lower ground level than the care home and is bounded by substantial stone walls, established vegetation and mature trees (including trees covered by the Lamorna and Trevellow Area Tree Preservation Order, Ref P/14/10 TP01). The site is not formally laid out but rather untended and overgrown with vegetation. These features mean that the site appears separate from the main area associated with the care home and instead appears more as a part of the surrounding countryside. I understand that the landscaped gardens at Menwinnion were originally more extensive than they are now, but that does not alter my assessment of the current situation.
12. The appellant argues that the site is well-related to the existing care home and that it is part of the same planning unit. However, there is no planning permission, certificate of lawful use or development (LDC) or other

documentary evidence sufficient to demonstrate that conclusively, and I have considered the proposal before me on the basis of the photographs and written evidence provided and what I saw during my site visit. This does not, of course, prevent the appellant from applying for an LDC at some point in the future to establish the permitted use of the land.

13. The development proposed would be of a relatively modest scale and the Council raises no objection to its design. Nevertheless it would plainly change the character of the site and urbanise what is currently an undeveloped parcel of land. Consequently, it would represent a detrimental encroachment of development into the countryside and thereby cause harm to the rural landscape and the AONB.
14. Although there would be only partial views of the proposal from vantage points in the wider landscape on account of the topography and screening from trees and vegetation, the proposal would be plainly visible from the track access to Menwinnion and adjoining bridleway. Thus, the new, developed character of the site would be obvious to users of the bridleway and would affect the experience of using it to a degree.
15. Planning permission already exists for a near identical scheme on a nearby part of Menwinnion's grounds on the opposite side of the car park (application Ref PA14/08884). The proposal in this appeal would not extend beyond the foremost building line of that proposal and would be almost identical in design. However, there are clear differences between the sites. In particular, the extant permission relates to an area of land that appears more closely visually and functionally connected to Menwinnion, relating to land comprising the car park and lawned area in front of the care home. But even if I had concluded otherwise, the Council's decision on that development would not justify me taking a decision which would result in significant harm to the AONB.
16. The extant permission will add to the extent of built development close to the appeal site and, to that extent, affect its setting. It will not, however, fundamentally change the character of the appeal site. Nor do I see any need to allow the development in order to create symmetry within the site. Although Menwinnion has previously been extended, this does not mean that all further development nearby is appropriate, and each proposal must be considered on its particular merits. I have taken account of existing development nearby, including a commercial campsite business, but that does not alter my view regarding the overall character of the area or the harm that would arise from the development.
17. For these reasons I conclude that the development proposed would fail to conserve the landscape and scenic beauty of the AONB. The proposal therefore conflicts with policy CC-1 of the Local Plan and relevant elements of the Framework.

Sustainability and other considerations

18. The appellant has provided evidence that sheltered housing provision is needed in the context of an ageing population, and creates greater opportunity for prospective occupants to vacate other properties should they so wish, to the

benefit of the general housing supply.¹ The proposal would therefore have some social and economic benefits, including in respect of paragraph 50 of the Framework, which sets out that authorities should plan for a mix of housing based on demographic trends, and paragraph 28 which sets out that planning should support economic growth in rural areas. These benefits count in favour of the development in my evaluation of whether it amounts to sustainable development. I also accept that there would be benefits in the links to the existing care home and there is no robust evidence before me to demonstrate that the additional intensity of use resulting from the proposal would result in unacceptable transport, or other impacts.

19. However the Government places great weight upon conserving landscape and scenic beauty in AONBs, and the adverse impact of the proposal on the landscape means that the development would have a clear negative impact in terms of the environmental dimension of sustainability, as outlined in paragraph 7 of the Framework. Consequently, considered as a whole, I do not regard this as sustainable development.

Conclusion

20. The proposal is for development on land which is in character part of the countryside rather than part of the tended grounds of Menwinnion. My finding that the development would fail to conserve the landscape and scenic beauty of the AONB means that this is a case where a specific policy in the Framework (paragraph 115) indicates that development should be restricted. In these circumstances, in accordance with Paragraph 14 of the Framework, the fact that relevant policies are out of date is not, in itself, a reason to grant planning permission. Moreover, I have found conflict with Policy CC-1 of the Local Plan and, on the evidence before me I conclude it would fail to comply with the development plan read as a whole. I have also concluded that it is not sustainable development.
21. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR

¹ Joseph Rowntree Foundation, *Supported Housing for Older People in the UK* (www.jrf.org.uk, 2012), and Housing Learning and Improvement Network, *Making Best Use of our Sheltered Housing Asset* (Institute of Public Care at Oxford Brookes University, 2012).