



Appeal Decision

Hearing held on 16 June 2021

Site visits made on 24 March 2021 and 17 June 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2021

Appeal Ref: APP/D0840/W/20/3262550

Sheldon House Nursing Home, Sea View Road, Falmouth TR11 4EF

- 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 Mr John Burgwin of Investin Sheldon Falmouth Developments Ltd against the decision of Cornwall Council.
 - The application Ref PA19/07108, dated 9 September 2018, was refused by notice dated 28 July 2020.
 - The development proposed is demolition of the existing building and development of 34 residential apartments (Use Class C3) with external landscaping, access, car parking and associated works.
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Decision

1. The appeal is dismissed.

Application for Costs

2. Before the hearing an application for costs was made by Cornwall Council against Mr John Burgwin of Investin Sheldon Falmouth Developments Ltd. It is the subject of a separate decision.

Procedural Matters

3. Prior to determination of the planning application the scheme was revised, and this was reflected by a revised description of development. Given that this was the development ultimately subject to the Council's refusal to grant planning permission, I have used the revised description of development in my decision.
4. I understand that the emerging Falmouth Neighbourhood Development Plan 2020 to 2030 (the FNDP) was due to proceed to a referendum on 6 May 2021 but, due to the ongoing coronavirus situation, it did not. Nonetheless, pursuant to the Planning Practice Guidance (the PPG)¹, where a Local Planning Authority has set out its intention to send a neighbourhood plan to referendum, that plan can be given significant weight, so far as is material to the proposal at hand.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area bearing in mind the special attention that should be paid to the extent to which it would preserve or enhance the character or appearance of the Falmouth Conservation Area (the CA).

¹ Paragraph: 107 Reference ID: 41-107-20200925

Reasons

Falmouth Conservation Area

6. Sheldon House Nursing Home (Sheldon House) started life as a villa before use as a hotel, until its most recent role as a care home. It sits adjacent to Pennance Road at the top, west side of a large rectangular plot which slopes down to its main access off Sea View Road to the east. To the north and south are the respective modern, flatted developments of Weller Court and Melvill Court. The site is within the 'Seafront' section of the CA. S72 of the Act² places a duty upon me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. Although inclusion of the Seafront area inside the CA just post-dated the publication of the Falmouth Conservation Area Appraisal (the FCAA) in 1998, the FCAA does refer to it in reasonable detail. It supports the view that the significance of this part of the CA derives from its piecemeal and organic development of small, high quality early twentieth century villas, guest houses and hotels of varietal style. A number of these buildings are or were once set in large garden plots, which are the most notable examples of Falmouth's distinctive and sometimes exotically planted micro-climate gardens.
8. The appellant's Historic Impact Assessment³ (the HIA) notes that in the area of the site the villa buildings tend to be relatively small, but their designs incorporate detailing that emphasises or exaggerates their height. The Design and Access Statement identifies the way that buildings tend to follow the topography towards Falmouth's seascape as characteristic⁴, which was also an element of the CA's significance identified by the Council at the hearing.
9. Sheldon House was constructed circa 1906 and has fine architectural detailing, particularly the twin gable, bay window frontage and roof arrangement. The latter has pitched roofs punctuated by dormers, gables and stacks, and front and centre, a tower element with a sculpted, curved roof which exaggerates the building's height. It has seen unsympathetic alteration more recently and has come to be somewhat surrounded by insensitive extensions. However, this does not significantly undermine the integrity of its frontage nor its perceptible character and important roof profile from Pennance Road, and particularly as it rises above greenery and appears set against the sky from Sea View Road.
10. Mapping indicates that the access and drive to Sheldon House may not be original. However, the extensive grounds serving the property, although unkempt, nonetheless also contribute positively to the luxuriant character of the treed garden spaces which thrive in the Seafront section of the CA.
11. At the hearing the Council clarified its position that the appeal site makes a positive contribution to the significance of the CA and, for the above reasons, I agree that it does so. This is all the more important given the site's position between Weller Court and Melvill Court. These developments, due to their significant massing and height, both have a negative presence within the CA, having respectively unsympathetically replaced smaller villas and a hotel.

² Planning (Listed Buildings and Conservation Areas) Act 1990

³ Dated August 2020 by AC archaeology Ltd

⁴ Ref 1112 _ DOC010 _ rev A

12. Sheldon House would be removed entirely, and its grounds significantly redeveloped. The replacement buildings would, however, exhibit high quality architectural detailing in their own right. They would encompass a calm, and simple approach which would create interest through the subtle employment of light and tone, as embodied by the work of the famous artists of the St Ives School, particularly the work of sculpture artist Barbara Hepworth. This would also be achieved through the interesting 'scooped out' butterfly design of each floorplate, necessary to create suitable living conditions for occupiers.
13. The Council is concerned at the lack of adherence to the traditional architecture of the CA. However, given the diversity inherent with the piecemeal growth of its Seafront section, it is not essential for new buildings to mimic the historic typology present here. Rather, the design ethos of the new buildings would allow them to read as honest, modern additions to the collective, adhering to the *genius loci* of Falmouth whilst also offering greater activity to the site's frontages. As such, these elements would provide invigoration to the area as aspects of true design quality and innovation in my view.
14. That being said, the height of the proposal would clearly exceed the established scale of buildings which contribute positively to the CA, and even those that do not, such as Melvill Court and Weller Court. In the top third of the site they would appear to rise discordantly, in defiance to the topography. The spaced disposition of the blocks is borne from a concerted effort to break up the mass of the scheme and adhere to the smaller grain of development prevalent in the CA. However, this would not be entirely successful as the perspectives from which the proposal would be viewed from Pennance Road and Sea View Road would lead the blocks to appear as an amalgam of, albeit multifaceted, masses. This would be accentuated by the elevated walkways, which would have the visible horizontal effect of linking the buildings into a more singular entity.
15. The scheme would therefore augment the incongruous presences of Melvill Court and Weller Court, leading an entire block within the CA to have a majority of buildings of excessive massing and height, which would be read together as one travels around Pennance Road and Sea View Road. The harm caused by the new buildings would be significant but localised as, although the buildings would be visible from certain vantages further afield⁵, I accept that these places do not provide landmark views from where the significance of the CA can be readily defined or appreciated.
16. The extent of landscaping within the site would be lessened. However, the new subtropical and drought tolerant planting has been carefully chosen to reflect Falmouth's climate and landscape character. Additional planting at the unduly urban Pennance Road frontage will provide a degree of visual enhancement to the CA. These elements of the proposal serve to offset the overall reduction in landscaped space and public views of said space, which leads me to conclude that the landscaping elements of the proposal, and the impact upon the significance of the CA deriving from its garden spaces, would be neutral.
17. I have been referred to the new 'The Liner' development which presides over Gyllyngvase Beach and which is reasonably close to the appeal site and within the same section of the CA. However, Sheldon House has a more contained, sylvan and suburban setting, whereas The Liner appears to occupy a prominent beachside position which lends itself to a commercial, landmark

⁵ From Tredova Crescent and Queen Mary Road

- building. As such, I do not consider The Liner to set a design precedent for the proposal nor evidence an inconsistency in the Council's approach to the CA.
18. I recognise that the design has undergone lengthy community engagement as well as iterative dialogue with the Cornwall Design Review Panel (the CDRP), which ultimately provided unconstrained support for the scheme. Members of the CDRP visited the site and I can see that its membership included those particularly qualified to consider the impact of the proposal on the CA.
 19. Supporting text to Policy 12 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (the CLP) states that advice and guidance from the CDRP will be used to help provide a more objective assessment of the design process and quality of development. Paragraph 129 of the National Planning Policy Framework (the Framework) also provides that decision makers should have regard to recommendations made by design review panels. I have done so.
 20. However, there is limited insight into how the CDRP defined the significance of the existing site in relation to the CA. Rationalisation for the demolition of Sheldon House appears to be on the basis that it is not a listed building, and concern that its retention would preclude large scale development of the site. The near loss of its grounds, a valuable attribute of the CA, is not mentioned. The CDRP's approach in these respects is understandable, given that its role does not consider the principle of the development but focuses on design matters arising from the presented scheme. Nonetheless, these comments cast doubt in my mind about the extent to which the important role of the existing site within the CA was an influential factor in the CDRP's focused assessment of the development proposals.
 21. In any event, the CDRP's final response alludes to a need for further assessment about impacts upon townscape and states that it cannot prejudice the outcome of a full appraisal of an application. For these reasons, whilst I recognise the support of the CDRP, and its professional authority, the content of its responses does not alter my view that harm to the CA would arise when vigilant of my duty to the CA under S72 of the Act.
 22. Drawing my assessment together, the proposal would see the demolition of Sheldon House and the redevelopment of its grounds, both of which make a positive contribution to the significance of the CA. Although the landscaping would be significantly reduced in extent, it would equally be enhanced in quality. However, whilst the buildings would also encompass high quality, innovative detailing, based on a compelling design ethos, they would be of discordant height and cumulative massing within the CA, within the direct context of two flatted developments already inappropriate in these terms. As such, the character and appearance of the CA would not be preserved.

Heritage balance

23. The main parties agreed at the hearing that the level of harm would be less than substantial but disagreed as to where this would arrive on a sliding scale of that harm. Given that the localised extent of the appreciable harm, the already unsympathetic alterations and extensions to Sheldon House, and the positive aspects of the scheme's design, I accept the submission that the less than substantial harm would be at the lower end of any such scale overall.

24. Nonetheless, the Framework states that great weight should be attributed to a heritage asset's conservation and that any harm falls to be weighed in the balance with the public benefits of the development, including securing its optimum viable use. As heritage assets are irreplaceable, any harm requires clear and convincing justification.
25. The appellant considers the scheme to be the optimum viable use of the site. However, it is clear from the PPG that the Framework's reference to 'optimum viable use' addresses the heritage asset itself. Furthermore, the PPG states that securing the optimum viable use of an area-based asset (such as a CA) as a whole is not a relevant consideration in assessing the public benefits of development proposals affecting such heritage assets⁶.
26. The Framework also states that decision makers should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs. Within this context, the scheme would reuse disused previously developed land within a town location with good access to services and facilities. In doing so, it would contribute thirty-four homes to the local supply, a social benefit of moderate weight given the quantum that would be delivered. There would be short term economic benefits during the construction phase and long-term economic benefits through the increased usage of local services. These would be economic benefits of moderate weight.
27. In addition, the scheme would provide an offsite contribution of £1,213,000 towards the provision of Affordable Housing (AH). Whilst I note that this sum is all that is necessary to comply with Policy 8 of the CLP, I accept that this also needs to be considered within the context of current AH need. The evidence of the Council's AH Officer shows a high need for AH in Falmouth and I also understand that a reduced version of this design, currently with the Council, could not viably contribute any AH⁷. The appeal proposal would make a modest contribution towards meeting the AH in the area. In these circumstances, it follows that the AH benefits of the scheme attract moderate weight.
28. Paragraph 131 of the Framework states that great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Whilst I have found the butterfly plan and detailing of the proposed buildings to exhibit innovation, the development would fail to fit in with the overall form and layout of the CA. As such, the elements of innovation and design quality inherent within the scheme constitute a public benefit of moderate weight.
29. The short stretch of pavement that would be provided along the Pannance Road frontage would terminate at the site's south west point, and there is already a continuous and quite wide pavement on the other side of the street. This would be a public benefit of very modest weight, as would the funding collected through the Community Infrastructure Levy. Outwith the AH, the planning obligations contained within the draft planning agreement serve to offset harms caused by the development and thereby achieve policy compliance, and they are not therefore public benefits in my view.

⁶ Paragraph 016 Reference ID: 18a-016-20190723

⁷ Ref PA20/09821

30. For these reasons, the likely social and economic benefits of the scheme amount to public benefits of moderate weight overall. They do not provide a clear and convincing justification for the less than substantial harm to the CA, to which I attach considerable importance and weight.

Conclusion on Main Issue

31. Accordingly, I conclude that the proposal would have an unacceptable effect on the character and appearance of the area bearing in mind the special attention that should be paid to the extent to which it would preserve or enhance the character or appearance of the CA. It would conflict with the design and heritage aims of Policies 1, 2, 12 and 24 of the CLP, the Framework and Policies DG3 and DG7 of the emerging FNDP. Given its stage of preparation, the conflicts with these policies of the FNDP attract significant weight.

Other Matters

32. The submitted draft legal agreement seeks to secure the AH and financial contributions to education, offsite Public Open Space and the Falmouth and Penryn Transport Strategy. In addition, the agreement would provide payment towards mitigation for the potential effects of the scheme on the integrity of the Fal and Helford Special Area of Conservation. However, as I am dismissing the appeal for other reasons, I have not considered these matters further.

Planning Balance

33. Planning law and the Framework require proposals to be determined against the development plan unless material considerations indicate otherwise.
34. I have found that the scheme would fail to preserve or enhance the character or appearance of the CA and that the public benefits which would arise from the scheme would not outweigh this harm. Consequently, the proposal would conflict with the development plan when read as a whole. Moreover, there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

35. For the reasons outlined above, and taking all other matters raised into account, including the initial officer recommendation that planning permission be granted, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Tom Wright MRTPI

Andrew Passmore BSC MCIfA

Paul Sandilands BArch(Hons), DipArch(Manc),
ARB, RIBA

Paul Cairnes QC

DPP Planning

AC Archaeology

Lifschutz Davidson Sandilands

FOR THE LOCAL PLANNING AUTHORITY:

James Holman MRICS MRTPI FAAV

Colin Buck Dip Arch MCIfA

Senior Development Officer

Senior Development Officer

(Historic Environment Planning)