



Appeal Decision

Site visit made on 30 November 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2022

Appeal Ref: APP/D0840/W/21/3278655

Mullion Gallery, Nansmellyon Road, Mullion TR12 7DQ

- 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 Thornton against the decision of Cornwall Council.
 - The application Ref PA19/09673, dated 31 October 2019, was refused by notice dated 15 June 2021.
 - The development proposed is demolition of former gallery to form 3 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of former gallery to form 3 dwellings at Mullion Gallery, Mullion TR12 7DQ in accordance with the terms of the application, Ref PA19/09673, dated 31 October 2019, subject to the conditions in the attached schedule.

Procedural matters

2. It has been suggested that site may not be large enough to accommodate the development. However, the site layout appears to have been based upon a measured survey and I saw nothing at the site visit to cast doubt on its accuracy.

Main Issue

3. The main issue is the effect on the character and appearance of the area.

Reasons

4. Nansmellyon Road is lined with buildings of a variety of ages and styles, set back from the road frontage. Buildings are generally single and two storey, some with rooms in the roof. These characteristics mean that it has a more spacious appearance than the historic core of the village.
5. The site currently contains a collection of low-key single storey buildings of varying heights and a functional appearance. Viewed from Nansmellyon Road, the site is read alongside other low buildings to the rear, including on Eglos Parc. This has created a relatively open pocket of townscape, but not one that makes a fundamental contribution to the overall character and appearance of the area.
6. While taller and of more uniform height than the existing buildings at the site, the proposed dwellings would still be of a small-scale and relatively low. First floor accommodation would be provided within the roof space such that the dwellings were not imposing on the street scene. They would be closer to the

- road frontage than the existing buildings, but like others on Nansmellyon Road, would retain some space between the highway edge and front of the dwellings.
7. The dwellings would be similar in design to another room-in-the-roof dwelling adjacent to the site. There are other examples of dormer windows and forward facing gables in the locality. While the proposed dormers and gables would be large, the inclusion of these features, therefore, picks up on established detailing in the area. The dwellings would add to the varied appearance of the street scene.
 8. Mullion is within the Area of Outstanding Natural Beauty (AONB). While, from some limited locations, it is possible to see distant views of the landscape across the appeal site, the immediate scene is essentially urban. Due to the height of the proposed buildings, they will not dominate their surroundings or be readily distinguishable from neighbouring ones in any wider views of Mullion in the landscape. The AONB is sensitive, and benefits from a high degree of protection, but for the above reasons, this development would conserve the landscape and scenic beauty.
 9. A mature tree in the grounds of the neighbouring dwelling 'Kerrow' is close to the hedgebank forming the boundary of the site. It is visible from the public domain and makes some contribution to the character and appearance of the area. There are existing buildings close to the tree and the replacement building would be further from the boundary. There is, therefore, no clear reason why the tree should be harmed, or its contribution to the character and appearance of the area diminished. A planning condition could ensure that protection measures are in place during construction.
 10. With regard to the above, I find that the proposal would not harm the character and appearance of the area. There would be no conflict with those aims of Policies 1, 2 or 12 of the Cornwall Local Plan 2010-2030 (LP) which seek to secure high quality design that respects Cornwall's enduring distinctiveness and the site's existing context.

Other Matters

11. The proposed parking arrangements do not include facilities for on-site turning. Vehicles would, therefore, have to reverse across the footway, which provides an access route to the nearby primary school and nursery. However, the development would replace existing commercial premises, that had little space for on-site manoeuvring. There is no substantive evidence of a significant likely increase in traffic generation.
12. Visibility splays across the site frontage, including providing for visibility exiting Eglos Parc are shown on the drawings. While these splays would not give clear visibility for any commercial vehicles reversing out of Eglos Parc it is not clear that this activity happens with such regularity that it should dictate local highway design. While pre-application advice may have suggested that on-site turning should be provided, the Council's Highway Officer has not objected to this proposal.
13. I also understand that HGVs sometimes perform U turns in the vicinity of the site and have, on occasion caused damage to neighbouring property and cars. However, I have no substantive evidence as to why these manoeuvres are taking place in this location or why large vehicles are likely to leave the

highway into the garden areas of the proposed dwellings in the future. While any incursion could cause serious danger to any children playing in those gardens I, therefore, attach very little weight to this matter.

14. The buildings would include windows facing Kerrow to the rear of the site. The intervening hedgebank would prevent intervisibility between ground floor windows, and the proposed first floor windows would serve bathrooms and be obscure glazed. Although close to the site boundary, the distance of the neighbouring dwellings from those boundaries, together with the low height of the proposed dwellings means that there would not be any unacceptable effects on the outlook of existing residents.
15. The proposal would result in the loss of commercial premises. Local residents have suggested that there has been no obvious marketing of the site and that, in any case, it has remained in a commercial use. Nevertheless, the Council are content that ongoing commercial use of the premises is unlikely and permission has not been refused due to effects on the availability of commercial floorspace.
16. The plot sizes and designs of the houses leave little opportunity for domestic storage. However, I have not been directed to any particular policy requirement to provide such facilities. Even if the dwellings were occupied by holiday makers, given their small size, that would not necessarily be more disruptive to the neighbourhood than a permanent residential use. There is no reason to suspect that external, artificial lighting would be any greater than at the numerous other residential properties in the locality such that it would affect appreciation of the area's dark skies.
17. There are reports of bat activity within the area. However, there is no substantive evidence that protected species use the buildings themselves or would be in any way harmed by the proposal.

Appropriate Assessment

18. The site is within a 'zone of influence' (ZOI) of the Fal and Helford Special Area of Conservation (SAC). The SAC is designated for its saltmarsh, intertidal mudflats, subtidal sandbanks, large shallow inlets and bays, estuaries and reefs. Recreational pressure, predominantly from those living or staying within the ZOI are causing harm to the habitats. There is, therefore, potential that additional residents at the site, in combination with other development, could result in adverse effects on the integrity of the SAC.
19. The Council advises that mitigation in the form of Strategic Access Management and Monitoring (SAMM) can avoid such adverse effects. This is to be funded through developer contributions proportionate to the scale of development proposed. In this case, the appropriate contribution has been paid and is detailed in an undertaking pursuant to S111 of the Local Government Act 1972. Following appropriate assessment under the Conservation of Habitats and Species Regulations 2017, I am, therefore, satisfied that adverse effects on the integrity of the SAC will be avoided.

Conditions

20. A plans condition is required in the interests of certainty. To ensure that adequate facilities are available for traffic likely to be attracted to the site, and in the interests of highway safety, the proposed parking spaces should be laid

out prior to occupation, and a visibility splay across the front of the site, including for vehicles exiting Eglos Parc, should be provided.

21. Due to the small size of the site and proximity of the dwellings to the boundaries, permitted development rights for extensions, alterations and curtilage buildings should be withdrawn from the dwellings, and the first floor rear dormer windows should be obscure glazed, to protect the living conditions of neighbouring residents.
22. In the interests of the character and appearance of the area, a condition is necessary to protect the hedgebank boundaries and off-site trees. The previous uses of the site could mean that it is contaminated land, so a suite of conditions are necessary to secure further investigation and, if required, remediation.
23. I have made some revisions to the Council's suggested conditions in the interests of clarity, to avoid duplication, and to ensure compliance with Planning Practice Guidance.

Conclusion

24. For the reasons given, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1750/01; 1750/02A; 1750/03B; 1750/04B; 1750/05B; 1750/06; 1750/07; 1750/08A.
- 3) Prior to the commencement of the development hereby permitted, a scheme for the protection of on- and off-site boundary trees and hedgerows during the course of development, and a timetable for the implementation and removal of any protective measures shall be submitted to and approved in writing by the local planning authority. The protection measures shall be implemented and retained in accordance with the approved details.
- 4) No development, other than demolition of any buildings or structures, shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. This assessment shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include a) a survey of the extent, scale and nature of contamination; b) the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as

unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.

- 6) The approved remediation scheme shall be carried out and upon completion a verification report shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 8) Prior to the occupation of the development hereby permitted, parking areas shall be laid out and constructed in accordance with approved drawing 1750/05B; and the said areas shall not thereafter be obstructed or used for any other purpose.
- 9) Prior to the occupation of the development hereby permitted, the visibility splay between the blue line shown on drawing 1750/08A and the highway edge shall be cleared of all obstructions and shall thereafter be maintained as such.
- 10) Prior to the occupation of plots 1 and 2 hereby permitted the windows on the first floor of the north elevation of plots 1 and 2 (as so labelled on drawing 1750/04B) shall be fitted with obscure glazing and the windows shall be permanently retained in that condition thereafter.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking, re-enacting or modifying that Order), no enlargement, improvement or other alteration of the dwellinghouse; alteration to the roof of the dwellinghouse; erection or construction of a porch outside any external door of the dwelling; or the provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, shall be carried out without the further grant of planning permission.