



Appeal Decision

Site visit made on 5 February 2024

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/D0840/W/23/3324548

2 Willow Close, Mylor Bridge, Falmouth, Cornwall TR11 5SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Phil Medlin against the decision of Cornwall Council.
 - The application Ref PA22/10620, dated 19 December 2022, was approved on 2 June 2023 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a new mobile home applied to the rear amenity space.
 - The conditions in dispute are 3 and 4 which states that: *"The annexe hereby approved shall only be used as ancillary accommodation. The annexe shall only be occupied by members of the family or non-paying guests of the occupiers of the dwelling known as 2 Willow Close, Mylor Bridge, and shall not be used at any time as a separate residential unit of accommodation"* and *"Prior to the occupation of the caravan, full details of landscape works shall have been submitted to and approved in writing by the Local Planning Authority and the planting works shall be carried out in accordance with the approved details."*
The landscaping details shall include: proposed finished ground levels or contours; planting scheme for southern and western boundary including species and density of proposed planting; a timetable for implementation of the planting and maintenance".
 - The reasons given for the conditions are: *"The Local Planning Authority consider that the proposed annexe would be inappropriate for occupation as a separate residential dwelling on the basis that it is unclear how the proposed annexe could function as a separate dwelling having regard to the need for separate amenity space, together with the close proximity, small size and orientation of the building with the parent dwelling, which would make separate, independent use undesirable in relation to ensuring a high standard of living accommodation for all occupiers in accordance with Paragraph 130 of the National Planning Policy Framework 2021 and Policy 13 of the Cornwall Local Plan Strategic Policies 2010 to 2030 (CLP)" and "In the interests of the visual amenities of the area, and in accordance with the aims and intentions of policies 12 and 23 of the CLP."*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became "National Landscapes". The legal designation and policy status of AONBs are unchanged, but I have replaced reference to the Cornwall AONB with the Cornwall National Landscape (CNL) in my decision to reflect this change.
3. The National Planning Policy Framework (Framework) was revised in December 2023. However, as the provisions in the Framework that are most relevant to

this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Background and Main Issues

4. Planning permission has been granted for the erection of a mobile home within the rear garden with conditions including those that restrict occupancy of the mobile home to that ancillary to the host dwelling (condition 3) and requiring full details of landscape works (condition 4).
5. The Council considers that condition 3 is necessary to ensure a high standard of living accommodation for occupiers of the host and neighbouring properties and future occupiers of the proposal. The Council's statement indicates that condition 4 is also necessary to protect the living conditions of the occupiers of the neighbouring property. However, this reason differs to those given on the decision notice and articulated within the Council's Officer report (OR) which relate to the character and appearance of the area.
6. The appellant asserts that condition 3 is unreasonable, whilst they consider condition 4 is not necessary and seeks the removal of both conditions. The main issues, therefore, are:
 - Whether condition 3 and 4 are reasonable and necessary to protect the living conditions of the occupiers of the host and neighbouring dwellings with particular regard to overlooking and overbearing effects, and future occupiers of the proposal with regard to outdoor garden space; and
 - Whether condition 4 is reasonable and necessary in the interests of the character and appearance of the area.

Reasons

Living conditions

7. The documentation supporting the planning application¹ states that the proposal was in order to provide ancillary annexe accommodation associated with the host dwelling. Although disputed condition 3 does restrict the occupation as such, the mobile home, as detailed in the submitted plans would have the facilities required to be self-contained and would provide those who used it, the facilities required for day-to-day private domestic existence.
8. Removal of the condition would therefore, in effect, result in an additional unfettered self-contained unit of accommodation, which could be occupied separate to the host dwelling. Although the appellant suggests they would utilise the mobile home for short-term lease, the proposal would not lose the characteristic of a separate unit if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons.
9. The mobile home is to be sited within the rear garden of the host property. However, due to the extremely close proximity of the mobile home to the rear elevation of the host property, it would inevitably, despite featuring a lower ridge height, appear overbearing. Moreover, the close proximity and lack of screening would result in harmful direct overlooking between the host property and the mobile home and associated decking and garden areas.

¹ PA22/10620

10. Furthermore, the topography of the area results in the appeal site being at a higher level than the adjacent neighbouring properties to the south and west. The existing boundary treatment between the properties consists of fencing and planting. Nevertheless, without further details of finished ground levels or additional screening, the raised floor level of the mobile home and decking in combination with the proximity to the neighbouring properties boundaries, would give the opportunity for future occupiers of the mobile home to overlook the lower neighbouring gardens, resulting in harm to those occupiers' living conditions.
11. Although no subdivision of gardens is indicated within the plans, given the size of the corner plot of the host property, the mobile home would benefit from sufficient outdoor space by way of a decking area and although constrained, surrounding garden area. Sufficient useable private garden space would also remain for the occupiers of the host property.
12. Notwithstanding, whilst I find that future occupiers of the mobile home and host dwelling would benefit from sufficient garden space, I conclude that conditions 3 and 4 are reasonable and necessary in the interests of protecting the living conditions of the occupiers of the host and neighbouring dwellings with particular regard to overlooking and overbearing effects. The proposal without the disputed conditions would therefore conflict with Policy 12 of the Cornwall Local Plan Strategic Policies 2010 – 2030 (LP). This policy seeks, amongst other things, for development proposals to protect individuals and property from overlooking, unreasonable loss of privacy and overbearing impacts. The proposal would also conflict with the provisions of the Framework which seeks to provide high standards of living conditions for existing and future users.

Character and appearance

13. The appeal site is located within a residential area and within the CNL. I observed that the surrounding area is characterised by traditional single storey and two storey dwellings within mature gardens. The disputed condition 4 seeks landscaping details, including a planting scheme for the southern and western boundaries. The Council have stated in their OR that the mobile home would '*not be significantly visible from public vantage points*', and whilst I agree this is the case from views along Willow Close, it would nevertheless be seen from the newly created access associated with the proposal onto Comfort Road.
14. Nonetheless, the mobile home is proposed to incorporate materials of a similar appearance to the host dwelling and existing mature planting would remain at the appeal site. Moreover, whilst the upper part of the mobile home would be visible from neighbouring private gardens, additional landscaping whilst providing screening as discussed in the previous main issue, would not significantly change the limited effect of the proposal on the character and appearance of the wider area.
15. Additionally, although within the CNL, given the modest scale, and surrounding built form and residential context, the proposal without additional landscaping would not have a harmful impact on the surrounding landscape.
16. Therefore, I conclude on the evidence before me that condition 4 is not necessary to protect the character and appearance of the area. Accordingly,

solely in relation to the effect on character and appearance, the proposal without condition 4 would accord with LP Policies 12 and 23 which seek, amongst other things, to ensure development respects and enhances the quality of place and landscape.

Other Matters

17. The Council's decision notice refers to LP Policy 13 within the reasoning for imposing condition 3, whereas the OR and Council statement also refers to LP Policy 12. LP Policy 13 relates to development standards including internal space, off-street parking and avoidance of adverse impacts resulting from such things as noise and visual effects. Given the size of the mobile home outlined within the submitted floorplans, I have no substantive evidence before me to indicate that the proposed removal of conditions would result in conflict with this Policy. Nevertheless, for the avoidance of doubt, I have reached my conclusions against the development plan as a whole and have not simply limited myself to the reasons provided for imposing the condition.
18. It has been put to me that due to age and background health concerns, the appellant may require a live-in carer in the near future and would require a source of income, which could be provided by the short term lease of the mobile home to paying guests. Age is a protected characteristic and therefore I have had due regard to the three aims of the Public Sector Equality Duty set out in the Equality Act 2010, including removing or minimising disadvantages that may be suffered by this group.
19. However, even if I had been provided with full and detailed medical evidence as part of this appeal, the disputed conditions would not prevent the use of the mobile home by a live-in carer, provided there was a functional and dependent link with the host dwelling, or indeed other sources of income. Furthermore, whilst it is also put to me that other annexe accommodation in the area retains the ability to lease, no details have been provided to me within the substantive evidence which allow any comparisons to be made. Moreover, the current appeal proposal has its own circumstances and I have determined it on its own merits.
20. The appeal site is within the Zone of Influence for the Fal and Helford Special Areas of Conservation (SAC). If the circumstances leading to the removal of the conditions had been present, I would have considered the impact of the proposal upon the SAC, in accordance with the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal on the first main issue above, I have not found it necessary to consider such matters any further as this would not alter the outcome of the appeal.

Conclusion

21. For the reasons given above, whilst I have found that condition 4 is not necessary in the interests of the character and appearance of the area, I have found that both conditions 3 and 4 are reasonable and necessary in the interests of protecting living conditions.

22. Therefore, the removal of the conditions proposed would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations that would indicate a decision otherwise. The appeal is therefore dismissed.

S Harrington

INSPECTOR