

Appendix T4

Extracts from relevant Secretary of State/Planning Appeal decisions relating to proposed CCRCs

Accompanies the report

Continuing care retirement communities

A guide to planning

Robin Tetlow

1. Development of Residential Accommodation on Land at Bradwell Grove Hospital, near Burford, Oxfordshire – APP/D3125/A/87/078923

Secretary of State Letter dated 8 August 1989

'In the Secretary of State's view the crucial issue is whether the scheme would constitute a C2 use or could effectively be confined to such a use. He notes your client's contention that the whole of the proposed complex would have many indications of being designed for institutional life, and the Inspector's conclusion that the use is probably best described as 'sui generis' in that it might start as a C3 use but would, as the settlement matured, assume more the character of a C2 use of residential institutions. He accepts that communalism could become greater as residents age and that there could in time be greater dependence upon the care facilities, which could give the development a somewhat distinctive character, even if it did not assume the character of a class C2 use to the extent envisaged by the Inspector. He considers it vital, however, that there is sufficient control to ensure that the development does not become a class C3 housing estate in a rural area. He observes that the appellants have put forward few firm proposals in this respect such as leasing arrangements or the setting up of a management organisation. He agrees with the Inspector about occupancy conditions and about the difficulty of enforcing the proposed condition preventing independent occupation for class C3 use. He notes the Inspector's view that if the proposal were to be built with the mix and range of facilities shown on the illustrative layout, that would be the best guarantee that the development would remain a 'sui generis' use. A condition could not be attached precisely in those terms since the layout plan is not part of the application. However, it appears that a similar provision would be made by the condition agreed by the parties which requires the completion of the care and community facilities prior to the occupation of the residential units. The existence of these facilities would make it more likely that the development would be occupied by people in the age band for whom your clients intend their proposals.

In all the circumstances the Secretary of State has concluded that because of the present condition of the site, the lack of environmental objections and the particular nature of the development, an exception to development plan policies is justified in this case, and he proposes to grant planning permission' (paragraphs 5 and 6).

N.B. The Secretary of State's decision was challenged in the High Court but upheld. *West Oxfordshire District Council v The Secretary of State and Wates Built Homes* (5 March 1990).

2. Redevelopment, including Conversion of Mansion and Lodge Houses, to form Retirement Village at the Mansion, Berkhamstead, Hertfordshire – E1/A1910/2/4/05

Secretary of State Letter dated 11 March 1999

'Structure Plan Policy 5 and the adopted Local Plan Policy 3 reflect the general presumption of national policy against inappropriate development in the Green Belt. The application site is within the Metropolitan Green Belt and adjacent to an Area of Outstanding Natural Beauty (AONB). Accordingly, the Secretary of State has considered whether the proposed development would be of a type regarded as appropriate in the Green Belt. National policy on Green Belts is set out in Planning Policy Guidance Note 2 (PPG2). The Inspector has stated that the proposed development fails to comply with Policy 3 of the adopted Local Plan. However, he also points out that Policy 3 does not reflect the latest version of PPG2 which allows redevelopment of major developed sites in the Green Belt (PPG2, Annex C). The site extends to some 14 hectares and is largely developed. Policy H3 of the Deposit Draft Local Plan clearly intends that the site should be regarded as a major developed site in the Green Belt in accordance with Annex C of PPG2. Both the applicant and the Council have placed reliance on the guidance in PPG2 and the Secretary of State agrees with the Inspector's conclusion that in the light of the size and nature of the site this reliance is properly placed. He has concluded that the development would comply with the guidance in PPG2 for a major developed site in the Green Belt and that it is not therefore inappropriate development' (paragraph 7).

'The consideration of the effect of the proposal on the setting of the Mansion as a listed building is a statutory obligation under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The site has been subjected to piecemeal development over a number of years which has resulted in a number of unsympathetic modern structures being placed on the site. The developments have greatly detracted from the original character of the grounds and the setting of the Mansion itself. The proposal involves the demolition of the modern buildings and the construction of new buildings located and designed to be in keeping with the listed elements, and with a resultant reduced ground coverage. The Secretary of State agrees with the Inspector's conclusion that the new buildings, if sensitively designed in association with a landscaping scheme would substantially restore the grounds of their original character, enhance the setting of the Mansion and would result in an overall improvement' (paragraph 8).

'The Secretary of State has considered if the proposals comply with the principles of sustainable development and the requirements of Planning Policy Guidance Note 13 (Transport). He has considered the impact of traffic that would be generated by the development on the local highway network. He notes that Hertfordshire County Council, as local highway authority, have raised no objections to the development. The Council have provided an analysis that compares with the traffic impact of the development with the potential B1 use. The figures support the view that a retirement village would generate considerably fewer traffic movements than an office development, and that greater use of public transport would be significant. The site lies on the route of three bus services. The proposal includes arrangements for buses to enter the site and provides for a bus stop and shelter within the site. In view of the above the Secretary of State agrees with the Inspector that in transport terms the development complies with the principles of sustainable development' (paragraph 11).

'The Secretary of State is satisfied that the development provides a satisfactory means of achieving the restoration and refurbishment of the listed building and its grounds. It satisfies Structure and Local Plan policies for suitable alternative uses for existing employment land and buildings, and complies with PPG2 Annex C for major developed sites in the Green Belt. He is satisfied that it complies with the principles of sustainable development and is in accordance with the requirements of PPG13' (paragraph 13).

3. Development of Retirement Homes, Residential Care Home and Community Building on Land at The Limes, Hinckley Road, Sapcote, Leicestershire – EMP/2405/220/15

Secretary of State Letter dated 12 August 1999

'The Secretary of State agrees with the Inspector's conclusions and accepts his recommendation. Therefore, for the reasons given by the Inspector, the Secretary of State hereby grants outline planning permission in accordance with application no. 97/1081/1/OX for development of retirement homes, residential care home and community building' (paragraph 5).

Inspector's Report to the Secretary of State

'For all practical purposes, this development could not be accommodated on allocated land. The likelihood of a suitable windfall site is slight. It would be unreasonable to require the proposal to await the next local plan, given the BDLP has but recently omitted to comply with paragraph 8 of PPG3. These factors constitute further cogent support for an off-

plan site in this case. I have consequently formed the view that if other material considerations were to outweigh the harm caused to the amenity and character of the area, this proposal might well constitute one of the infrequent cases where built development with no inherent grounds for a rural location would nevertheless be justified' (paragraphs 77 and 78).

'The nature of this scheme would make it unlikely to appeal to many of the over-55's who still enjoy a normal, working live. The aggregate availability of 3 bus services, some on-site social, medical and other personal care facilities and the close and convenient proximity of Sapcote for at least daily "top up" shopping would lead to an average car usage rate appreciably lower than on many other new residential developments. LSP Strategy Policy 3 provides that major housing development will normally only be appropriate on sites within or adjoining settlements identified as providing or capable of providing a realistic choice of transport. The application site is not within or adjoining a settlement. It is, nevertheless, close enough to Sapcote to be functionally connected to it. By virtue of Strategy Policy 2, Sapcote is not identified as providing a realistic choice of transport; this proposal would however be capable of so doing' (paragraphs 83 and 84).

'Sapcote does not have swimming or indoor bowling facilities, nor a proper doctor's surgery. Provision of such facilities within walking distance of the village would therefore be appreciable benefit to the village's existing, retired population, as would an additional bus service. This proposal would thus contribute to the quality of village life, whilst at the same time reducing the need to travel' (paragraphs 88 and 89).

'The 73 jobs to be created by this proposal would, by their nature, for the most part not demand high skill levels. The majority would hence be likely to be taken up by local people, which would benefit the economy of the village without the disadvantage of the inward commuting which could well arise if the extant B1 planning permission were implemented at the application site. Even in the unlikely event that both existing, private residential homes for the elderly were forced to close, there would still be a net increase of 20-plus jobs. In line with advice in paragraph 3 of PPG3 and paragraph 3.19 of PPG7, this development would also help sustain the village economy by providing new customers for the existing local shops. This proposal would accordingly have appreciable economic benefits for Sapcote village' (paragraphs 90 to 93).

'Provision of affordable housing is not one of the scheme's primary purposes. The 9 units to arise here would therefore be a further useful, but incidental, benefit' (paragraph 94).

4. Proposed Retirement Village on Land at Former Pontins Holiday Camp, Middleton Towers, Carr Lane, Middleton, Heysham, Lancashire – APP/A2335/V/00/000217 & PNW/5292/219/35

Secretary of State Letter dated 9 September 2002

'The Secretary of State shares the Inspector's view that, bearing in mind the unique nature of the proposals, they are beyond the scope of the development plan policies on housing allocations and with regard to new housing in the rural area. As the retirement village would be a completely new enterprise, there is no real evidence about the likely catchment area for future residents and it cannot be assumed that it would have a significant impact on housing land supply in Lancaster' (paragraph 9).

'With regard to national planning policy guidance on Transport, as set out in PPG13, the Secretary of State agrees with the Inspector that the need for off-site trips would be limited since the proposed residential units would be occupied by elderly people; 20% of the units would be car-free; there would be little necessity for residents to travel to work, school or college from the site; and most of the needs for shopping, recreation, health, social activities and dining would be provided for on site (IR 11.18). Whilst there would also be needs for residents to travel off site, the Secretary of State accepts that the submitted Section 106 legal agreement would secure the provision of 2 minibuses covering circular fixed routes to major shopping and recreational centres. In reaching these conclusions, the Secretary of State has taken into account the additional comments made by the parties in response to his letter of 20 May in which he requested further information about the proposals. In particular, the Secretary of State is satisfied that the measures to be covered in the proposed green travel plan would assist in reducing the overall number of car journeys generated by the development and that additional trips generated by the provision of on site services would not be significant' (paragraphs 11 and 12).