
Appeal Decision

Site visit made on 11 July 2017

by Mike Fox BA (Hons) DipTP MRTPI

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

Decision date: 1st August 2017.

Appeal Ref: APP/D0840/W/17/3169531

DS1485, St Austell Enterprise Park, Treverbyn Road, Carclaze, St Austell, Cornwall, PL25 4EJ

- 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 Ashdown Company against the decision of Cornwall Council.
 - The application Ref PA16/04788, dated 20 May 2016, was refused by notice dated 26 August 2016.
 - The development proposed is change of use from B1, B2 and B8 to C2. Proposed 63 bedroom, Level 5+ dementia care unit with hospice and end of life wing.
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Decision

1. The appeal is dismissed.

Main Issues

2. From reading the evidence and from my observations of the appeal site and its surroundings, I consider the main issues are:
 - (i) The effect of the loss of an allocated employment site on Cornwall's economic prospects, especially in relation to the regeneration of the China Clay area and the town of St Austell;
 - (ii) The effect of the proposal on the future economic viability of the employment area;
 - (iii) The effect of the proposal on the living conditions of future occupiers of the proposed development, particularly from traffic noise; and
 - (iv) Whether, on balance, the community need for the proposal outweighs any harmful impacts identified in the first three issues.

Reasons

3. The appeal site is located within the St Austell Enterprise Park in the China Clay Area Regeneration Plan Area, to the north of the town of St Austell. The site is an unused parcel of land of no particular landscape value. The busy A391 main road runs along its western boundary. A roundabout at the south-west corner of the site links the A391 to the enterprise park; the access road into the enterprise park itself borders the south and east of the site, with employment uses on the opposite side of the road to the east and a hotel and restaurant to the south. The site shares a common border with employment land to the north.

(i) The effect of the proposal on Cornwall's economic prospects

4. The recently adopted Local Plan¹ makes provision for 704,000 sq m of employment floorspace in Cornwall, the delivery of which will be through a Site Allocation DPD or Neighbourhood Plans. The proposal would result in the loss of 1.9 ha of employment land within a purpose-built employment area of around 4.3ha. Whilst the site has not yet been identified within the Site Allocation Plan which the Local Plan refers to, the St Austell Enterprise Park is identified as one of a number of sites which is expected to deliver a significant part of this total with potential for mixed use office/industrial development.
5. Saved policy SA8 (2) of the Restormel Local Plan allocates the enterprise park (referred to in that policy as Carclaze Downs) for business, industrial and warehouse uses. In planning policy terms, there has been a clear commitment for some time that the area now known as the St Austell Enterprise Park has a strategic part to play in the regeneration of the China Clay area of Cornwall.
6. Within this context, Local Plan policy 5 aims to ensure a continuous supply of appropriate business space, whilst bullet point 2 states that proposals that would result in the loss of business space must:
 - (i) demonstrate that there is no market demand through active and continued marketing for at least a period of 9 months; or
 - (ii) result in the provision of better quality employment space allowing for mixed use; or
 - (iii) be necessary to meet a clear need for community facilities; or
 - (iv) be unsuitable to continue as a business use due to environmental considerations.
7. No evidence has been submitted to show that the site has been marketed for employment B1, B2 or B8 uses over a nine-month period; I note that an offer for the site has been made and rejected, indicating that there is a reasonable prospect of the site being used for its allocated purpose. Another relevant consideration is that there is a proposal for a West Carclaze Eco-community immediately to the north-west of the site, which has been approved, and some residential development is already in place. This eco-community, for phased development of up to 1,500 dwellings and other supporting uses, is clearly a key element in the Council's regeneration plans for the China Clay area.
8. The proximity of the eco-community to the appeal site reinforces the need to ensure that the remaining employment land allocations at the St Austell Enterprise Park are not only in place to meet overall Local Plan needs, but also to meet the employment needs generated from the eco-community.
9. I therefore conclude in relation to the first main issue, that the loss of allocated employment land within a key enterprise area, close to a new eco-community, and with a reasonable prospect of delivery of employment land, would constitute harm to Cornwall's economic prospects, contrary to Local Plan policy 5 and saved policy SA8 (2) of the Restormel Local Plan, and this is therefore a material consideration which would weigh against allowing the appeal.

¹ Cornwall Local Plan Strategic Policies 2010-2030; adopted 22 November 2016.

(ii) The effect of the proposal on the future economic viability of the employment area

10. The Council argues that the proposal for a C2 use would be sensitive to the impact of potential future industrial uses in the St Austell Enterprise Park, in terms of noise or other forms of disturbance. It is therefore argued that the requirements of a dementia care unit would not be compatible with the potential development in the enterprise park.
11. The possible curtailment of economic activity in this location, it is argued, for example through the prevention of a change of use to a B2 industrial use, would have an impact on the future economic viability of the enterprise park. This would be in terms of both stifling possible new jobs but also displacing existing jobs, if harmful impacts on the living conditions of future occupiers of the proposed development were considered to be unacceptable at some point in the future.
12. The initial outline planning permission for the enterprise park envisaged just B1 use², but this was amended through a subsequent full permission for Phase 1, which extended the range to B1 and B8 uses³. Both of these permissions included a noise related condition, requiring sound attenuation measures, so as to safeguard the residential amenities (living conditions) of nearby residential occupiers and the rural character of the area.
13. The Council cites a more recent planning permission, granted in March 2011, for the development for B1, B2 and B8 uses, on the land immediately to the north of the appeal site, a development which has been implemented⁴. The Council argues that opening up this land to the possibility of B2 industrial development would mean that potential future industrial activities or processes here could harm the living conditions of the future occupiers of the proposed development.
14. Condition 8 of this planning permission, however, requires sound attenuation measures to limit the escape of noise from the building in order to safeguard the residential amenities (living conditions) of nearby residential occupiers and the rural character of the area. This condition would, in my judgment, ensure that the living conditions of the future occupiers of the proposed development would be safeguarded. I do not accept the Council's interpretation that this condition would only apply to the impact on development that existed at the time of the granting of that planning permission.
15. The strategic aim for the China Clay Regeneration Area, as expressed in the Local Plan, is a vision for this area to become the 'Green Capital' of Cornwall, to include amongst other aspects, industries that offer regeneration and environmental benefits. I do not consider that this vision is compatible with the possibility of permitting future industries within the enterprise park that could harm the living conditions of neighbouring residential areas (or C2 uses such as the appeal proposal). It would also be unacceptable for new employment development to harm to the living and working conditions of other uses in the area, such as the neighbouring hotel.

² Application number 03/01873 granted planning permission; dated 24 December 2003.

³ Application number 05/01583 for Phase 1, proposed business park, with access and associated landscaping, land adj. to A391, Carclaze Downs; granted planning permission; dated 15 December 2005.

⁴ Application number PA10/06459 for two buildings with associated parking and landscape in use categories B1, B2 and B8, North of St Austell Enterprise Park; granted planning permission on 8 March 2011.

16. I therefore conclude in relation to the second main issue, that the proposal would be unlikely to impact on the future economic viability of the employment area, and would therefore not be contrary to the strategy of the Local Plan to regenerate the China Clay Area.

(iii) Living conditions of future occupiers

17. The appeal site is subject to noise arising from road traffic movements associated with the A391, adjacent to the western boundary of the site. This traffic noise, however, is exacerbated by the roundabout situated at the south-west corner of the site, which causes vehicles to brake on approaching it and then accelerating away from the roundabout. It is further compounded by the fact that traffic moving away from the roundabout in a northerly direction, past the appeal site, has to accelerate even more noisily on account of the upward gradient of the road.
18. Although I have already concluded that the neighbouring employment uses are conditioned to be compatible with residential development, they would also generate traffic noise, including the sound of reversing heavy goods vehicles and delivery vans. This would contribute to cumulative noise impact.
19. National planning policy, as expressed in paragraph 123 of *the Framework*⁵, states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Although the wording here refers to new development, I consider that the principle is the same when considering the impact of existing development, or other sources of noise such as road traffic, on the future occupiers of proposed noise-sensitive development, such as a dementia unit. Paragraph 123 draws a distinction between 'significant adverse' impacts which are to be avoided and 'adverse' impacts (my underlining) which need to be minimised through mitigation.
20. Whilst the Appellant plans to construct an acoustic barrier, in order to ensure compliance with the requirements of the national technical standards, I note that this barrier, in the form of a fence, will only bring the external noise level – primarily from the traffic using the A390 – down to the upper guideline value, giving no margin for error.
21. I also note from the Appellant's technical report⁶ that in relation to internal noise levels for the south and west facades (i.e. those facing the A390 and the roundabout), the daytime ambient noise level is 7dB above what is considered to be acceptable in the national technical standard BS 8233:2014, which covers recommended indoor ambient noise levels, and which also tie in with WHO guidance.
22. The night time ambient sound, based on the above report is also 1dB above what BS 8233:2014 considers to be acceptable. It seems that the only secure way of ensuring that ambient noise is reduced to the levels recommended by the national technical standards is for all external windows to be kept closed at all times. Whilst this could be achieved by a planning condition, together with the securing of a trickledown effect, this seems to me to be a contrived situation, which would make for poor quality living accommodation, even with

⁵ National Planning Policy Framework (*The Framework*); March 2012.

⁶ Inacoustic: St Austell Enterprise Park, Carclaze, Cornwall-Noise Assessment for Planning Application (PA16/04788); 14 July 2016.

air conditioning. These poor living conditions would be even more onerous where the future occupiers for the most part would be likely to remain permanently within the dementia unit and require constant care.

23. The Appellant refers to nearby housing on the opposite side of the A391 which recently has been granted planning permission and which would also be affected by noise from the main road, thereby implying inconsistency on the part of the Council's decision making. I am not aware of the detailed circumstances associated with this permission, but in any event, my remit is to consider the development proposal before me and to determine it on its own merits.
24. On the basis of the above considerations, I conclude in relation to the third main issue that the proposed development, where the living conditions issue would be if anything even more sensitive than for 'normal' residential accommodation, would not sit comfortably in a location which is exposed to such a high level of traffic noise in very close proximity and on more than one side of the proposed development. I consider that this amount of noise would fall into the category of 'noticeable and disruptive', which the PPG identifies (paragraph 005) as situations of: "having to keep windows closed most of the time because of the noise...Quality of life diminished due to change in acoustic character of the area"⁷. The advice given by the PPG in these circumstances is to avoid development. I therefore consider that this is a material consideration which would weigh heavily against allowing the appeal.

(iv) The concluding balance

25. I have found that the proposed development would not impact adversely on the viability of the enterprise park. It would, however, result in the loss of employment land within an enterprise park which is expected to play an important role in the regeneration of the China Clay Area. I also note that there is a community need for a dementia unit and that the location of the proposed development can be regarded as sustainable in terms of its proximity to facilities, services and public transport. However, the main consideration, which I consider outweighs all other considerations and is therefore the determining factor in this appeal, is the unacceptable impact of road traffic noise on the living conditions of future occupiers of the proposed development.

Conclusion

26. For the reasons given and having regard to all other matters raised, I conclude that the appeal should fail.

Mike Fox

INSPECTOR

⁷ Planning Practice Guidance (PPG) ID: 30-005-20140306 *How to recognise when noise could be a concern?*