



Appeal Decision

Site visit made on 16 July 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/D0840/W/19/3226982

The Old Station Business Park, Station Road Industrial Estate, Perranporth TR6 0LH

- 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 Frame Home (South West LTD) against the decision of Cornwall Council.
 - The application Ref PA18/00485, dated 12 January 2018, was refused by notice dated 28 November 2018.
 - The proposal is a housing development for 11 flats.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Frame Home (South West LTD) against Cornwall Council. This application is the subject of a separate decision.

Procedural Matters

3. In the interest of brevity, I removed reference to the site address from the description of development.
4. The second reason for refusal given within the decision notice relates to the absence of a legal agreement to secure planning obligations. During the appeal a unilateral undertaking was submitted by the appellant and accepted by the Council. This is reflected by my identification of the main issue below.

Main Issue

5. The main issue is whether the site is suitable for residential development with regard to the integrity of employment land and the effect on the living conditions of potential future occupiers.

Reasons

6. The site is a plot of industrial land which forms part of the Station Road Industrial Estate, within the settlement of Perranporth. It has been vacant for over two years. The area around the site contains commercial and residential properties. A row of units incorporating a gym, a sign maker and an office are to the south, with a chapel of rest to the south west. Station Road passes the site on lower land a short distance to the east. It is fronted by dwellings to the north and a row of larger industrial units to the east and south east, with the nearest two units housing a garage and a haulage firm.

7. Policy 5 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (CLP) seeks to protect existing business space. Where a proposal would result in the loss of an existing site, regardless of its size or standard, a number of scenarios are given which may enable mitigation or justification for this loss. Applicable to this proposal is the first scenario which requires the demonstration of an absence of demand for the site through active and continued marketing for a period of at least 9 months.
8. The appellant has identified that a marketing exercise has been carried out by a named company for a period exceeding 9 months. However, no substantive detail has been provided, and without knowledge of where, how and at what frequency the site was advertised, I cannot conclude that the marketing exercise was active or that it evidentially demonstrates an absence of market demand.
9. The letters from Practical Developments do indicate long-term difficulties in finding tenants in Perranporth and highlight site specific issues concerning regulatory compliance and market competition. However, whilst these factors may well influence interest in the site, they are not a proportionate substitute for the actual testing of the market pursuant to a sufficient marketing strategy. As such, and without evidence that any of the other criteria listed within Policy 5 would be met, the proposal would conflict with this policy in this regard.
10. Under the terms of the National Planning Policy Framework (the Framework) the safeguarding of business land extends to the consideration of the effects of development on neighbouring sites. Paragraph 180 states that proposals should integrate effectively with existing businesses without unreasonable restrictions placed on them as a result of the development. As such, while the establishment of mixed-use areas can be appropriate, it is important that the mixture of land uses is compatible.
11. Many of the existing businesses near the site do not typically generate high levels of noise or other disturbance, and this is reflected in the absence of complaints from existing dwellings and the long-established chapel of rest. However, there is no evidence that current activities are controlled or restricted, for example by condition. As such, this *status quo* cannot be relied upon to remain. Although the appellant has control over the units to the south, land ownership is also subject to change.
12. The car garage and haulage firm on Station Road would be in close proximity to the east elevation of the flats, which would incorporate full height windows and Juliette balconies on to principal rooms. Given the proximity of the flats to these larger scale, unrestricted industrial businesses, and the absence of any attenuating features between them, there is the potential for conflict to arise through noise pollution. I am not persuaded that this would be mitigated by the prevailing wind, nor that all activity at these sites would be contained inside buildings in the future.
13. Given the circumstances, as the proposal is not accompanied by a detailed noise assessment I cannot ascertain that the proposal would not prejudice nearby businesses through restrictions imposed as a result of future nuisance complaints. Although the Council has not supplied proof that conflict would arise, the burden lies with the proposal to demonstrate that the relationship between sites would be harmonious and policy compliant.

14. Paragraph 118 of the Framework gives substantial weight to the value of the efficient use of Previously Developed Land (PDL), and this is echoed by Policy 21 of the CLP. However, this is not restricted to housing provision, and the CLP identifies a need for business land within the area, which is reflected by the views of the Town Council. As it is undisputed that housing land supply is not constrained, and unestablished that the site is demonstrably unwanted for business purposes or that its residential redevelopment would safeguard nearby sites, the proposal would not constitute an efficient reuse of the land.
15. Drawing my findings together on this issue, I conclude that the site is not suitable for residential development with regard to the integrity of employment land and the effect on the living conditions of potential future occupiers. It would conflict with Policies 1 and 5 of the CLP and the Framework insofar as they seek to sustain economic development. Policy 4 of the CLP relates to retail, and the scheme would not conflict with this policy.

Other Matters

16. The development would be within influence of the Penhale Dunes Special Area of Conservation, which is a European Protected Site designated under the Conservation of Habitats and Species Regulations 2010. There is no dispute between the parties or Natural England that the proposal would likely have significant effects on this designation through increased recreation. As such, had the circumstances that could have led to the granting of planning permission been present, it would have been incumbent upon me as competent authority to ascertain the appropriateness and delivery of the agreed mitigation within an Appropriate Assessment.
17. Likewise, I note the presence of a protected species (common pipistrelle bat) within the site and the need for the proposed work to obtain a Bat Mitigation License. Had I been minded to allow the appeal, I would have had to undertake consideration of the acceptability of the proposed mitigation, and conclude my assessment against the three derogation tests. As I am dismissing the appeal for other reasons, I have not taken these matters further.

Planning Balance

18. The government is seeking to significantly boost the supply of housing. The proposal would reuse PDL to provide 11 homes, and a sum towards off-site affordable housing, in an accessible location where it would positively contribute to the Council's housing land supply and occupants would support local facilities. There would also be a small, time limited economic benefit during construction. However, given the scale of the proposal and the Council's housing land supply position, I consider that these benefits would be modest. The absence of harm to the character and appearance of the area is a neutral factor in my assessment.
19. The Framework and development plan also seek to support the economy through the protection of appropriate business land. The absence of adequate marketing of the site and the failure to demonstrate that adjacent businesses would be safeguarded are matters to which I attribute significant weight, and which outweigh the benefits of the proposal. As such, I find that the proposal would conflict with the development plan when read as a whole. There are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

20. Taking all matters into account, including the original officer recommendation to approve the planning application, I find that the appeal should be dismissed.

Matthew Jones

INSPECTOR