The Planning Inspectorate

Appeal Decision

Site visit made on 11 September 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Appeal Ref: APP/D0121/W/19/3230403
Land at Serbert Way, Portishead, Somerset BS20 7GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr M S Jenkins of Swangate Developments Ltd and Anchor, against the decision of North Somerset Council.
- The application Ref 18/P/2553/FUL, dated 28 February 2018, was refused by notice dated 7 December 2018.
- The development proposed is the erection of an extra care development, comprising 96 no. 1 and 2 bedroom units and 1 no. guest suite; associated access, parking and landscaping (use Class C2).

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against North Somerset Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the appeal site is a suitable and sustainable location for housing, having regard to the development plan and the site's allocation for business/employment use (Use Class B1-B8).

Reasons

4. The appeal site is a parcel of land of approximately 1.1ha in the town of Portishead. The site does not have any current buildings, nor does it appear actively used. Much of the site has overgrown vegetation covering the ground. The site is in an area which is mixed, with some housing, a supermarket, and a hotel, being near the site for example.

5. The site is shown as a proposed employment site (Class B within the Use Class Order) on the Policies Map within the Sites and Policies Plan, Part 2 - Site Allocations Plan (SAP). It is the only such employment site allocated that remains within Portishead.

6. Within the SAP, Policy SA4 states that on such land proposals for alternative non B1–B8 development will only be permitted where it can be demonstrated that the loss of the site would not adversely impact the ability to achieve wider economic aspirations including regeneration, business growth, and improved

commuting patterns. If the proposals meet these requirements of the initial paragraph of policy SA4 then it also must meet one of three further criteria, which includes the need for a marketing exercise.

7. In regard to addressing the first paragraph of policy SA4, the appellant has stated that as the site has been vacant for approximately 18 years, then the proposal to build the extra-care development would be a form of regeneration which would contribute towards the local economy. However, whilst is clear that there has been a significant amount of recent housing built within Portishead, the provision of employment opportunities as a contribution to a mix of uses within the town would also be an important contribution towards sustainable regeneration. The development of this site for housing would not provide towards such a mix, especially as this would result in the loss of the last remaining allocated employment site in Portishead.

8. Although a vacant site would not have any benefits to the regeneration of Portishead in the future, the question is whether there is a realistic prospect of this employment allocation being taken up and B-Class development on this site. If that did happen then the proposal would constitute a positive move towards regeneration in providing a business/employment use to go alongside the housing development already undertaken in the town.

9. In terms of business growth, I recognise that the proposal would have a commercial element as it would be a business running the extra-care development with staff employed. However, the 15 full-time equivalent (FTE) positions envisaged by the developer is less than the 137 FTE positions the Council anticipate could be created by a B-Class use.

10. The 137 FTE figure does appear to be a rough calculation, but I am of the opinion that even considering the effect of the net-developable area of the site, a business falling within a B-use class would have the potential to provide higher levels of employment than the development proposed. Furthermore, whilst I recognise that the construction of the proposed development would result in the potential creation of jobs in this sector locally, this would be for a temporary period and such a benefit would also likely be the consequence of a B-Class use development for an office or factory for example.

11. Whilst I recognise the commercial element of the proposed development, this is primarily a residential scheme. The use of this site for a nursing home would therefore clearly have an adverse effect on the ability to grow business in this area and Portishead as a whole, given that the proposal would result in the loss of the last remaining allocated site for B-Class use in this settlement.

12. In connection with the issue of business growth is the matter of out-commuting. A business/industrial use of the site with potentially high levels of employment could result in a reduction in out-commuting towards major employment centres like nearby Bristol for example. However, the proposed nursing home would not have the same potential to reduce out-commuting as it would not provide a substantial amount of jobs for the increasing population of Portishead.

13. For these reasons, the proposed development would not accord with the requirements of the initial introductory paragraph of policy SA4, as the proposal would result in an alternative primarily residential use of a site which is the last allocated for B-Class use within Portishead. As a result, the proposed

development would adversely impact the economic potential and aspirations of regeneration and business growth within Portishead and would not have a significant benefit to the commuting patterns.

14. However, this conclusion is on the basis that the site would not remain vacant. If the site remains vacant then it offers no benefit to regeneration or business growth, for example. In this regard paragraph 120 of the National Planning Policy Framework (the Framework) is relevant, as this seeks to ensure that policies reflect changes in demand and that if there is to be no reasonable prospect of an application coming forward for the use allocated, then alternatives such as through a planning application, should be supported. The test therefore is whether there is a 'reasonable prospect' of the site coming forward for B-Class use, as it has been allocated.

15. The site has remained undeveloped for many years and I recognise that the marketing period has not yielded any interest in the site for its allocated use. There was an offer from the Council, but I acknowledge that this is not the same as a developer showing interest to actually develop the site. As such, I give this matter little weight. However, the policy was only adopted relatively recently, in 2018, and the plan period is until 2026. The issue therefore is whether there is a realistic prospect of the site being delivered as allocated in the plan period.

16. The appeal is accompanied by a document entitled 'Portishead Employment Space Availability Report' by Hartnell Taylor Cook LLP. This document recognises that Portishead has experienced significant growth over the last 10 years or so but states, in their July 2018 update, that "the Serbert Way Site is unlikely to attract interest from B1 space developers due to the lack of demand for B1 space in Portishead, viability issues, physical and planning constraints, and the likelihood of compatibility issues with surrounding occupiers." Furthermore, the original document states that there is sufficient availability across the North Somerset area to meet demand for the next 10 years.

17. Clearly, the lack of development of this site for its allocated use would support the conclusions of the appellant, which indicates that for reasons such as the net rent potential being too low and construction costs too high to build a development for B-Class use. However, it is not clear from the evidence provided how much of a change in circumstance would be needed to improve the chances of achieving a development on this site that would meet the allocation use.

18. For example, the Hartnell Taylor Cook LLP report states that demand for Portishead peaked in 2015 with an improving economy, but the vote to leave the EU has resulted in a period of uncertainty which has impacted negatively on demand. However, whilst Brexit may still be resulting in a negative effect on demand and investment, this is unlikely to have a similar impact for the next few years. Certainty could return in the short term and this could improve the economic prospects for Portishead, improving demand and therefore the prospects of a speculative development at this site for business or manufacturing use, for example.

19. Further to this, the appellant has recognised that the forthcoming Portishead railway link station and improvements to Junction 19 of the nearby M5 could improve transport links. These improvements could also form a catalyst over the next few years to improve demand specifically in Portishead rather than

elsewhere in North Somerset. This would be especially the case if these improvements can help to address congestion at peak periods which the appellant identifies as a deterrent for businesses looking for space in Portishead. The new railway station could result in some more traffic in the area, but not necessarily so. There is no substantive evidence before me to reach such a conclusion.

20. The Council have provided me with the North Somerset Employment Land Review (2018) by Atkins, which was produced to inform the new North Somerset Local Plan to 2036. Their figures show a vacancy rate of 8-9% of B-Class land which they suggest shows the need for more employment space available to help with market efficiency. In terms of the supply of business land and demand in the future, this Review did conclude that the allocated supply of business land could "be seen as a relative oversupply" but stated that this should be retained for North Somerset to capitalise on any "step change" in economic prospects.

21. Therefore, the site allocations for employment land would allow for an upturn in the economy, which is a pragmatic and positive economic strategy. This is especially true for this site, as it is the last allocated site of its type within Portishead. If this site was lost to a primarily residential scheme, there would be no alternative site allocated for business use within Portishead if there was an economic upturn, which does not constitute a proactive economic strategy.

22. I recognise that some forms of B-Class use may not be completely compatible with the adjacent uses, such as the hotel or filling station. However, this would be a matter for any future planning application. Otherwise, there is an adopted policy which allocated the site in 2018 for B-Class use there are many possible uses within this broad use class definition that could be compatible with surrounding uses.

23. Overall, the proposal would not meet with the requirements of the introductory paragraphs of policy SA4 of the SAP for the reasons set out above. Therefore, it is not necessary to further consider the subsequent criteria within this policy, such as the need for marketing of the site. Furthermore, it has not been satisfactorily demonstrated that the site does not have a realistic prospect for being developed for the allocated use. In this regard, the proposal, which would result in the loss of the last remaining B-Class allocated site in Portishead, is contrary to the Framework, which also requires significant weight to be placed on the need to support economic growth (paragraph 80).

Planning Balance

24. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.

25. In the context of the development plan I have found that the proposed development would be contrary to Policy SA4 of the SAP. For this appeal, I

have found these policies are generally consistent with the relevant aims of the Framework.

26. The proposal would provide 96 units for housing older people within the development, on a site that has been vacant for some years. In this regard policy DM40 of the Sites and Policies Plan Part 1: Development Management Policies (adopted 19 July 2016) sets a criterion for Council support of housing for retired people, which includes being in a settlement boundary and accessible location, and to provide a good standard of support and care. The site is within the Portishead settlement boundary and has good transport links, and I have no reason to doubt the good standard of support and care that would be provided for occupants.

27. The Framework states that housing should be provided for different groups within the community, including older people (Paragraph 61). The appellant has submitted a 'Planning Needs Assessment' (Carterwood, 2018) which assessed the matter of local need for extra care spaces and found a significant shortfall within the catchment area, which was described as a critical undersupply. The report also supports the qualitative aspects of the proposal, such as the development of new state-of-the-art facilities. I also recognise how the proposed development would potentially release some of the pressure on existing local health services.

28. In terms of economic benefits, the building work would be substantial and would support approximately 240 construction jobs for a temporary period of time, according to the appellant. As noted above, the development would then support around 15 FTE permanent jobs.

29. I recognise that the proposal could result in existing housing stock being released to the market when older people move into the development. The proposal could also result in an increase in expenditure locally, supporting local businesses for example.

30. These are examples of social and economic benefits that would likely be derived from the proposal. The proposal is also accompanied by a legal agreement, which requires the scheme for the developer that the scheme would only provide for persons who are aged 65 or more amongst other restrictions, amongst other things.

31. However, despite the benefits, I must weigh this up with the harm that I have identified, relating to the loss of what is the last remaining allocated employment site within Portishead, contrary to adopted policy. Whilst the proposal would have some economic virtues, the harm to the economic strategy and prospects of Portishead in losing its last allocated employment site would be substantial. As a result, the overall economic role of sustainable development would not be achieved if the site is allocated to used for an alternative use.

32. Therefore, this scheme would not be a sustainable form of development overall. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits.

Conclusion

33. For the reasons given above and after considering all the issues raised, the appeal is dismissed.

S. Rennie

INSPECTOR