



Appeal Decision

Site visit made on 4 June 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2024

Appeal Ref: APP/D0840/W/23/3326592

The Creamery, B3276 From Mawgan Porth Hill To Junction North Of Penvose Farm, Trevarrian, Newquay, Cornwall TR8 4AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Duncan Powell, Acorn Property Group against the decision of Cornwall Council.
 - The application Ref is PA22/10549.
 - The development proposed is redevelopment of site for mixed use scheme.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would make adequate provision for business space, having regard to supporting economic growth and the requirements of the development plan;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the proposal secures adequate provision for any additional need for education, public open space and health provision arising from the development, and mitigation measures relating to the Penhale Dunes Special Area of Conservation (SAC).

Reasons

Business space

3. The proposal would result in the loss of a large purpose-built industrial unit and associated land, and replacement with two smaller commercial units. This would result in a reduction of business space, stated by the appellant to be 90%. The Cornwall Local Plan Strategic Policies 2010-2030 (LP) seeks amongst other things, to support jobs, business and investment with a focus on sustaining a range of local businesses. It sets a framework to encourage both large and small scale opportunities throughout Cornwall in appropriate locations.
4. LP Policy 5(2) outlines certain criteria that must be met if proposals result in the loss of business space. Given the conjunction 'or' is used between each criterion, proposals need only meet one of the four detailed criteria. The first

requires active and continued marketing for at least a period of 9 months, which the evidence before me suggests has not been carried out in full. Nevertheless, the second criteria, requires proposals to result in the provision of better quality employment space allowing for mixed use. The LP does not define 'better quality', and this is therefore a matter of planning judgement.

5. Whilst a significant reduction in business space is proposed, the proposal would provide business space of greater flexibility being within Use Classes E (Commercial, Business and Service) & F (Local Community and Learning) as opposed to the existing B1 (Light industrial) use. It is also put to me the proposal would allow 2-5 small businesses to operate from the site that could offer better opportunities for the local community at Trevarrian. Furthermore, the proposal could result in purpose-built commercial units with improved sustainability credentials.
6. Notwithstanding, there are other factors in the consideration of 'better quality' employment space. LP paragraph 2.17 outlines that employment sites in Cornwall remain an important part of supporting employment growth. It continues that employment land and buildings should only be considered for alternative uses where this does not result in the loss of economic performance of the site or location, i.e. through the redevelopment for a mix of uses. In my view, as well as environmental aspects including design, the effect on the local economy and community are also required to be part of the consideration of 'better quality'.
7. The legal opinion¹ provided by the appellant states that it is estimated that the new units would attract 10 new jobs, which appears to me to be a fair reflection given the business space available and proposed use classes. However, this is significantly lower than the 37 jobs previously provided at the site.
8. Even if it is the case that these jobs were all capable of relocation and went to people not solely from the area, there is no substantive evidence before me to indicate that the significantly greater quantum of employment that could be generated from the existing industrial premises could not provide a greater amount of employment opportunities for the local community. Such opportunities could also have associated benefits including reduced car travel.
9. Furthermore, even if it is the case that evidence in relation to matters such as the demography or economy of Trevarrian would be highly onerous as is put to me, there is no substantive evidence that the proposal would not result in a loss of economic performance from the site. Therefore, whilst noting the importance of small businesses within Cornwall, it has not been demonstrated in the evidence before me that the new provision will offer better opportunities for the local community at Trevarrian or result in a more self-contained settlement.
10. Moreover, whilst the proposal is for modern commercial units, the existing facilities are also of modern construction and due to their size, contributes to a range of employment provision in the area by providing a large-scale commercial facility. There is also nothing in the evidence to convince me that a future operator could not come forward specifically seeking the type and scale of facilities currently at the appeal site, which may not be available elsewhere.

¹ Matthew Dale-Harris, Landmark Chambers, 20 July 2023

I therefore do not find, given the substantive evidence before me, that there is a compelling argument that the proposal would provide better quality employment space as envisaged within the LP.

11. The third criteria require proposals to be necessary to meet a clear need for community facilities. Whilst the proposal includes an element of planning use Class F (Local Community and Learning), the need for such provision has not been demonstrated. It is also put to me that the proposal would provide housing, particularly five discounted at an affordable rate, to meet a community need. Even if I were to consider housing as a 'community facility' for the purposes of LP Policy 5, whilst the contribution to housing stock is valuable, the Council are able to demonstrate a five year housing land supply.
12. Furthermore, although I acknowledge an affordable housing need in the parish outlined by the Council's Senior Affordable Housing Officer, it has been demonstrated that the site would benefit from Vacant Buildings Credit. The proposed gross external floor area of the residential element of this proposal would not exceed that of the existing building on site.
13. As such no affordable housing contribution is necessary to make the development acceptable in planning terms having regard to Regulation 122 of the Communities Infrastructure Levy Regulations 2010. I am therefore unable to take account of this obligation in determining this appeal and find that the proposal would not be necessary to meet a clear need for community facilities.
14. The fourth criteria require that the business space be unsuitable to continue as business use due to environmental considerations. Although the location of the appeal site is divorced from any larger town, and it may be the case that they are of limited design quality, there is no substantive evidence before me that operation of the existing facilities has resulted or will result in any adverse environmental harm.
15. Consequently, I conclude that it has not been adequately demonstrated that the proposal would make adequate provision for business space, having regard to supporting economic growth and the requirements of the development plan. The proposal would conflict with LP Policy 5, the purposes of which I have previously described. The proposal would also conflict with the provisions of the National Planning Policy Framework (Framework) in relation to supporting economic growth and productivity.

Character and appearance

16. The appeal site is on the edge of the settlement of Trevarrian, to the north-eastern side of the B3276 highway and within the Watergate and Lanherne Area of Great Landscape Value (AGLV). Trevarrian is a small settlement of nucleated form. Rather than being of solely traditional character, the mix of differing scale and design of buildings, as well as commercial uses which are noticeable travelling along the B3276, contribute to the varied character of the settlement.
17. The AGLV is a valued landscape, which the Framework seeks to protect and enhance. It is described as comprising a distinct combination of a spectacular coastline backed by the picturesque valley of the River Menanhyll, resulting in a strong sense of place. The appeal site is also located within Cornwall Landscape Character Area CCA17. The summary description of CCA17 notes that the area

is an exposed northwest-facing coastline, and pastoral and arable land enclosed with Cornish hedges. Key characteristics include a generally small to medium scale field pattern, low lying vegetation, and a settlement pattern of nucleated settlements.

18. The built form of Trevarrian is largely found on the opposing side of the highway to the appeal site. However, whilst existing buildings at the appeal site are partially screened by an earth bund, the access is a visually prominent feature that catches the eye and frames views of the existing industrial buildings. Moreover, when travelling into Trevarrian, given the public house car park and associated glamping pods which are also on the same side of the highway as the appeal site, it is observed as being part of and within the form of the settlement. As such, I find the highway does not form a clear visual or physical edge to the settlement.
19. The proposal would inevitably result in a change in the appearance of the street scene in a gateway location. However, the new dwellings fronting the B3276 would be of a scale similar to existing dwellings on the opposing side of the highway providing a not uncharacteristic continuity and enclosure of the street scene. Moreover, whilst the proposal represents a relatively large increase in the number of dwellings within a small settlement, given the close visual relationship with existing housing, the roadside dwellings would also provide a visual connection with the layout of the wider proposal, further assimilating it into the settlement form.
20. Moreover, the proposed housing would utilise traditional external materials seen elsewhere within the settlement. Although featuring some more modern architectural features and detailing, the traditional external materials and dwelling form including pitch roofs would nevertheless successfully integrate with the character of Trevarrian.
21. The proposed commercial units whilst being more prominent from the B3276 than the existing industrial buildings, would be seen in conjunction with the buildings at the holiday park on the opposing side of the highway and would not be seen to extend beyond the eastern edge of the settlement. Moreover, mixed woodland planting and coastal wind tolerant native hedging would provide, where utilised, a more appropriate landscaping solution than the existing earth bund, which appears uncharacteristic of the highway boundaries in the area due to the wide verge, scale and the lack of planting.
22. Although I find part of the settlement, the appeal site is set into a hillside and is seen within the rural landscape, particularly from the east where it would be seen on the skyline. However, the proposal would be seen in the context of existing development at Trevarrian including buildings associated with the holiday park and would therefore not appear as isolated development on the skyline.
23. Whilst Trevarrian is surrounded by a rural landscape, which includes a number of the key characteristics of CCA17, the landform of the appeal site has been substantially altered with cut and fill and screen bunding. Combined with existing structures and hardstanding of industrial scale and character, notwithstanding sitting low in the landscape, the appeal site is evident as previously developed land (PDL) and does not exhibit the positive characteristics of the surrounding AGLV. I find that the overall landscape and

scenic quality of the appeal site is poor and low value which accords with the findings of the LVIA.

24. The LVIA also finds that the greatest landscape impacts would affect the AGLV and would be of medium magnitude and moderate significance. Notwithstanding, although the proposal would extend overall development further east within the site, the scheme would result in a more fragmented built form of smaller units that, combined with increased green infrastructure, would provide a softer urban edge in the rural landscape than is existing. It would also be visually well associated with the existing built form of Trevarrian and be better suited to its valued landscape setting. I therefore find that overall, the proposal would not result in harm to the surrounding landscape.
25. Consequently, I conclude that the proposal would not have a harmful effect on the character and appearance of the area. It would therefore accord with LP policies 2, 12, 21 and 23, and saved Policy 14 of the Restormel Borough Local Plan (RBLP). These policies, amongst other things, seek to ensure development is of high-quality design that respects and enhances quality of place, prevent harm to the AGLV and make best use of PDL. The proposal would also accord with the provisions of the Framework relating to achieving well-designed and beautiful places and conserving and enhancing the natural environment.

Education/public open space/health provision/SAC

26. A planning obligation by unilateral undertaking, dated 9 August 2022 made under Section 106 of the Town and Country Planning Act 1990 as amended (UU), has been submitted with the appeal. This seeks to overcome the Council's third reason for refusal although does not provide provisions in relation to public open space. Despite concerns raised by the Council during the appeal process, there is no substantive evidence before me to indicate that the UU has not been executed correctly.
27. In terms of education, Mawgan in Pydar primary school is operating over capacity, and a financial contribution is therefore required towards the construction or extension of education facilities at this school. The proposal would generate an additional requirement for health care from new occupiers, with a contribution sort towards the Narrowcliff Surgery, Newquay Health Centre and Petroc Group Practice.
28. Overall, I find the obligations included in the UU relating to education and health provision are directly related to the requirements of LP Policy 28 and are necessary, and fairly and reasonably related in scale and kind to the proposed scheme. Furthermore, the operative parts of the UU requires that the contributions are increased by a percentage as defined within the UU. This results in the contributions being adequately index-linked.
29. Whilst the UU does not provide provisions in relation to the onsite public open space, I see no reason why the required provisions cannot be secured through a planning condition if the appeal were successful.
30. The appeal site lies within the zone of influence of the SAC and the Council's third reason for refusal partially relates to a failure to make an appropriate contribution towards mitigation measures. This would be required due to additional recreational pressure the proposal would place on the SAC. The UU commits to payment of contributions to Strategic Access Management and

Monitoring schemes over phased payments, with the first payment made prior to occupation of the first dwelling.

31. If the appeal were to be allowed, I would need to undertake an Appropriate Assessment in accordance with the Habitats Regulations. However, as I am dismissing the appeal for other reasons, the proposal would not take place and would not affect the habitats sites. It is therefore not necessary for me to consider this matter further.
32. In conclusion, the proposal makes adequate provision and provides an adequate mechanism to secure the additional need for education and health provision arising from the development, whilst public open space could be dealt with via condition. The proposal therefore accords with LP Policy 28 which amongst other things, seek developer contributions to ensure necessary infrastructure is in place. Furthermore, as the proposal would not take place, there would be no conflict with LP Policy 22, which seeks to ensure appropriate mitigation of recreational impacts on the SAC from development is secured.
33. LP policies 8 and 27 are also referenced within the Council's third reason for refusal. LP Policy 8 seeks to ensure that affordable housing is provided within development schemes where required, whilst LP Policy 27 seeks to ensure all developments provide safe and suitable access. Neither affordable housing, nor access is otherwise referred to within the reasons for refusal by the Council. Given my findings in the first main issue relating to affordable housing, I find this policy not to be relevant. Moreover, there is no substantive evidence before me as to why the proposal would not provide a safe and suitable access.

Other Matters

34. Other appeal decisions regarding the loss of employment space in relation to housing, and the support for replacement commercial buildings as 'environmental reasons' have been cited by the appellant. However, details of the other cases, including the Inspectors reasoning or context are not before me and I am therefore unable to ascertain any relevance. Moreover, the current appeal proposal has its own circumstances, and I shall determine it on its own merits.

Planning Balance and Conclusion

35. Although the proposal accords with some policies of the development plan in relation to character and appearance, it has not been adequately demonstrated that the proposal would make adequate provision for business space, having regard to supporting economic growth and is contrary to LP Policy 5, to which I give significant weight.
36. The proposal would contribute to the supply of housing on previously developed land. Whilst the Council are able to demonstrate a Framework compliant supply of housing, the provision of housing is nonetheless valuable, and I afford this moderate weight. Any provision of affordable housing is not necessary to make the development acceptable in planning terms, and I therefore cannot take into account any benefits of affordable housing provision.
37. The proposal would also provide public open space, a net gain in biodiversity, and a mix of commercial uses, including Use Class F (Local community and learning) with good sustainability credentials. However, these benefits would be moderated due to the scope and scale of the development. The proposal

would also help to support the construction industry during the short term, as well as further economic and social benefits as a result of the future occupation of both the dwellings and commercial units. However, these benefits would be reduced due to the loss of the existing employment use.

38. Nevertheless, for the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR