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Your ref:
My ref: 09-1273-P
Date: 11th January 2010

Proposed Supermarket, Petrol Filling Station, Car Parking, Highway Works, Nature Reserve and Associated Works at Marsh Lane, Hayle.

Dear Simon,

Further to our conversation on Friday (08/01/10) please find set out below my initial concerns regarding the robustness of the Sequential Tests required by Planning Policy Statement 25 (PPS25) in relation to flood risk and Planning Policy Statement 4 (PPS4) in relation to location of the proposed supermarket in an out of centre location.

PPS 25 Sequential Test

I am unsure of the principle of disaggregating the highway works from the overall scheme. The highway works are fundamental aspect of the development in that the works will facilitate ease of traffic flows to and from the proposed supermarket and are an important element of making the proposal acceptable.

Whilst the majority of the site is not of concern in terms of flood risk the fact that the highway works are within Flood Zone 3a is of concern. I have asked the Environment Agency to make particular comment on this aspect and await their response which I will forward once received.

At paragraph 4.12 of the PPS 25 Sequential Test Assessment the argument presented to claim the sequential test is satisfied is considered weak and is based upon the premise of separating the highway works from the rest of the scheme for the purposes of the sequential test. There is no analysis of different access routes to the proposed supermarket thus it is arguable that a sequential test for highway works has been carried out. This is notwithstanding the unconvincing approach to disaggregating the highway works. As such this calls into question the need for and validity of the exception test.

Turning to Table 1 and subsequent analysis which details the sites sequentially tested, I have concerns that the test is insufficiently detailed or robust in setting out the arguments as to why the alternative sites are less preferable. Where sites have common flood zone constraints then an analysis should be supplied to show why one site is preferable in terms of the site having a lesser area within the relevant flood zones.

- Jewson: Having looked at the Council's flood zone data as supplied by the Environment Agency, I note that the areas within Flood Zone 3 are quite restricted. Areas of Flood Zone 2 although more extensive, do not encroach into the main part of the site. Given that the application site underwent layout alterations to allow for the flood zones an analysis to show that it is not possible to 'fit' a store onto the Jewson site would add weight to the test. Given the level of analysis and information I am not convinced that the Jewson site fails the sequential test.
- Jewson and South Quay combined: My comment is as above for Jewson site in isolation. Also, there is a Planning Committee resolution to approve development on South Quay with approval for associated uplift in land levels which has been agreed by the Environment Agency. This to my mind adds additional weight to the argument that the site is acceptable in terms of flood risk unless it can be shown that the Marsh Lane site is preferable as less of the site area would be in areas at risk of flooding or in areas of lesser flood risk.
- North Quay and Loggans Moor: My comment is as for the Jewson site.
- R&J Supplies: Conclusion agreed.
- Hayle Rugby Club: Given the interest of another supermarket business in this site and the level of pre-application discussion undertaken, I am not convinced that the site is not available. In terms of location, the site is sequentially better than the proposed Sainsbury site as it is within Flood Zone 1. Reference to PPS6 is not relevant when comparing the Rugby Club and Marsh Lane sites in terms of location as both sites are out-of-centre thus the judgement falls to flood risk comparison. It is agreed that availability of the site due to the need to relocate the Rugby Club is a valid consideration. However the submitted sequential test does not contain an assessment of alternate locations. The discussed material planning considerations arising from a new site set out at Page 18 of the test are speculation and may or may not be a barrier to relocation. Without alternate site identification it is not possible to comment on whether the rugby club could be successfully relocated. There is no broad analysis of costs which could reasonably be expected in relocated the rugby club which weakens the conclusion of the assessment for this site.
- South Quay: The assessment is not robust and is speculative in its use of words such as 'could', 'likely' and 'potentially' without any evidence in support. The assessment lacks evidence which would give confidence in the assumptions made.

Overall, it is considered that the Sequential Test has not been passed with regard to Flood Risk and the submitted assessment strays overly into considerations other than flood risk.

PPS 4 Sequential Test

The sequential approach to site selection is carried forward to PPS4 from PPS 6 so the analysis set out in the Retail Assessment (RA) remains valid.

At paragraph 7.12 the North Quay, Loggans Moor and Hayle Rugby Club sites are considered inappropriate for consideration as part of the test as they are out of centre sites thus not sequentially preferable. I disagree with this position with regard to North Quay which is closer to Foundry centre than the Marsh Lane site thus is sequentially preferable. I am, however, reassured to note that the sites do form part of the test which adds to the robustness of conclusions.

The Draft Area Action Plan for Hayle Issues and Options paper which was produced by the former Penwith District Council is a material consideration but carries little weight. The Draft AAP has not been progressed by the unitary authority and there is current uncertainty over the role of Hayle within the county strategy for urban centres. As such no reliance can be placed upon the outcomes of the Issues and Options Paper at this time. Given the early stage of work by Cornwall Council, I doubt that any formal documents setting out the future of Hayle within the wider authority will be forthcoming in the near future. I am concerned that the RA places undue reliance upon the Draft AAP in supporting the proposals which in turn has weakened the arguments put forward.

As with the sequential test for PPS 25 I have concerns that the assessments carried out are not sufficiently detailed or robust:

- South Quay: Sequentially acceptable, the argument is weakened by the use of words such as could and potentially for alternate housing sites. This is speculation and sits against a context of placing a less vulnerable use on the quay rather than the more vulnerable housing. So it can equally be argued that removing the availability for housing *could* push housing to *potentially* more suitable sites. Simply because the Council has supported one type of use does not preclude support for another type of use when taking into account the deliverability of the harbour regeneration in the current economic climate. In the section relating to configuration no explanation is given as to why the site is not favourable for a food-store and is an assumption made without discussion or supporting evidence. Also an unsupported assumption is the potential for harm to the historic setting. There is no robust argument to set out why it is not equally arguable that the proposal could potentially preserve or enhance what is currently a derelict site. No evidence or discussion of how harm would occur has been set out. The viability argument has not been supported by evidence. Also the argument sits uncomfortably with the preferential national policy focus on redevelopment of brownfield sites. It is accepted that these sites may well be accompanied by extraordinary costs and indeed are more likely to have such costs attached thus it is given that there will be additional burdens on viability. But until it has been shown that the site would be unviable for a particular proposal then the site remains as a potential option and cannot be discounted. In the conclusion to the assessment the argument made against

South Quay is weak and relies on perceptions and assumptions rather than sound reasoning or evidence.

- Jewson: No evidence has been put forward to support the claim that the site owner has no "aspiration to relocate the business". As such the argument regarding lack of availability is unconvincing. The arguments for suitability and viability prompt the same response as those for South Quay.
- North Quay: The RA notes that the site is out of centre thus not sequentially preferable to proposed site. I disagree with this position as although the site is strictly out of centre it is still closer to the town and easier to access than the site at Marsh Lane. Thus in terms of assessing preferential out of centre sites North Quay is in a more sustainable location and its use would contribute to the regeneration of the harbour area. The comment on the impact on future development on South Quay and Jewson sites is not sufficiently in depth to allow a conclusion to be drawn.
- South Quay and Jewson: As above for the Jewson site. Evidence or a deeper analysis is required to show that it would be a difficult site to integrate with the wider regeneration. Without this there is no robust justification to discount the site.
- R&J Supplies: Agreed that the site is unsuitable.
- Loggans Moor: Viability argument is accepted and Loggans Moor can at this time be rejected as other sites are preferable for varying reasons.
- Hayle Rugby Club: – The RA notes that the site is out of centre thus not sequentially preferable to the proposed site. Redevelopment also requires relocation of the rugby club. The site is apparently available and the rugby club have been linked to a supermarket chain who have progressed pre-application discussions with the Council. It is agreed that the rugby club site is of no difference in terms of sequential testing of location when compared to the application site. However the rugby club site is away from the County Wildlife Site and fully within Flood Zone 1 thus in terms of constraints is less fettered than the application site. No analysis has been presented to give confidence that other sites are available for relocation of the rugby club as discussed above for the PPS 25 sequential test.

I regret to say that I do not consider that sufficient evidence or detailed argument has been put forward to support the sequential test as required by PPS 4. The submitted assessment fails to convince that the site at Marsh Lane is the only site available to meet the identified need for a supermarket for Hayle.

Please note that the above does not represent an exhaustive comment on the part of the Council, however it does set out the principle concerns to enable the application to progress, please do not hesitate to contact me to discuss the above.

Yours sincerely

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