



Appeal Decision

Site visit made on 10 September 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/D0840/W/19/3231201

**Storage Building adjacent to West Towan Farm
(Easting 201442, Northing 49128)**

- 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 Mr & Mrs N Frampton against the decision of Cornwall Council.
 - The application Ref PA18/11647, dated 11 December 2018, was refused by notice dated 10 April 2019.
 - The development proposed is the conversion of domestic storage building to unit of holiday accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of domestic storage building to unit of holiday accommodation at Storage Building adjacent to West Towan Farm (Easting 201442, Northing 49128) in accordance with the terms of the application, Ref PA18/11647, dated 11 December 2018, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr & Mrs N Frampton against Cornwall Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect on the living conditions of future occupiers of the building, with particular regard to noise and odour in relation to surrounding agricultural activities.

Reasons

4. Towan Lane leads to a group of buildings at East and West Towan Farms, amongst which lies the building subject to this appeal. The farming enterprise at the immediately adjoining farm is said to extend to some 500 acres with over 500 head of livestock, and a building attached to the appeal building is used for rearing livestock¹. Given the relationship, there is potential for normal day to day farming activities, that could occur at all times of day and night, to impact upon the living conditions of future occupiers.
5. The Council's Community Protection officer indicates that the provision of storage space between the proposed accommodation and attached barn would act as a buffer helping to mitigate the transmission of noise, so I conclude that

¹ Representations of DG Maskell on behalf of Messrs E J Pengelly & Sons 26.07.2019 & 07.01.2019.

the physical attachment of the building is of little consequence to my following assessment.

6. The building is located close to the edge of the access road leading to West Towan Farm, such that vehicle movements to and from the farm, together with many of those to service other associated land, would have to pass in very close proximity to it. That said, access to the building would be to the rear, via a parking space alongside the building, and there is no substantive evidence that there would be a particularly unsafe conflict between occupants of the building and farm activities.
7. The appellant has carried out noise and odour assessments during the summer and winter. There is no dispute that these did not identify any adverse effects. However, they were only snapshots in time and accordingly, the Council is concerned that they may not be a fair representation of potential for disturbance. Indeed, the Council's Community Protection officer identified odour during a site visit and the various assessments do not rule out that disturbance could occur at some times.
8. I note that the appellant's reports may draw on guidance relating to other legislative regimes and do not indicate what farming activities were going on during the surveys, but there is also no evidence that they were carried out at times of unusually low activity, or that the guidance is not relevant. Whilst the Council's officer detected odour, there is no analysis of the extent to which it would be likely to cause disturbance or harmful living conditions. Nor is there any assessment of its likely source, so there is no particular evidence that such disturbance, were it to re-occur, would necessarily be a product of the relationship to other farm buildings.
9. Furthermore, there are other residential properties in close proximity to the site and farming activities. There is no dispute that the Council has no record of any complaints being made. There is evidence from the neighbouring farmer that they have received complaints in the past, but there is no clear indication of the particular circumstances involved, so I give that limited weight.
10. The noise reports identified that sound levels within the building could be close to maximum levels recommended by the World Health Organisation and in British Standard 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. However, the recommended levels were not exceeded. Internal levels had been calculated in the reports with windows partially open and, whilst the Council contends that this would not be an acceptable living environment, there is no substantive evidence as to why not. Nor is there any robust evidence that the chosen location for monitoring would have resulted in particularly low readings.
11. As the reports are snapshots, I cannot be certain that there will not be times when adverse noise or odour is present at the site. However, the evidence available firmly suggests that this would not be the situation at most times. In the absence of any firm evidence that the surveys were not representative, or that there are particular periods of time that were missed when disturbance is highly likely, I find that any disturbance that may occur would not be so frequent or severe as to harm living conditions.

12. In light of the above, I also find that the presence of residential accommodation at the site is unlikely to result in future restrictions being placed on farming activities. The presence of other existing dwellings close by adds weight to my conclusion in this regard. As such, I find no conflict with Paragraph 182 of the National Planning Policy Framework (the Framework) that indicates that businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. I note that the farm may not currently be operating at full capacity and that if the enterprise chose to house fattening pigs in the adjoining building, this could lead to unexpected problems for future residents. However, there is no firm evidence of future expansion proposals or that this particular scenario is likely.
13. In light of the above, I find that future residents would not be subject to unacceptable living conditions as a consequence of the relationship of the building and adjoining agricultural activities. Therefore, there would be no conflict with those aims of Policies 1, 12, 13, and 16 of the Cornwall Local Plan 2010-2030 or those parts of the National Planning Policy Framework that seek to ensure that adequate living conditions are provided for future occupiers of residential buildings.

Other matters

14. It has been suggested that an electric box at the building has been previously detached and could cause health and safety concerns for future occupiers. However, there is no clear evidence as to the circumstances surrounding this, so I attribute it very little weight.
15. The site is within an Area of Outstanding Natural Beauty (AONB). The Council's officer report indicates that the proposal, which would involve the retention of a traditional building, would have a positive impact on the character of the area. There is nothing to lead me away from this position, so I find that the landscape and scenic beauty of the AONB would be preserved.
16. The appellant has undertaken a bat and barn owl survey². The survey indicates that common pipistrelle bats use the site as a day roost. Works to the building to facilitate the change of use could result in deliberate disturbance of this European Protected Species. It is, therefore, necessary for me to have regard to the derogation tests required under the Conservation of Habitats and Species Regulations 2017 and consider whether a licence is likely to be granted by Natural England.
17. The first test requires that there are other imperative reasons of overriding public interest to justify the proposal. The Council and appellant have indicated that the building would secure the use of an existing building that may otherwise be left redundant. The building has some aesthetic value as part of the group of buildings at East and West Towan and in this regard, I find its retention in active use a benefit. There would also be some small benefit to the local tourism industry.
18. The second test requires that there is no satisfactory alternative. The benefits relating to the barn's retention outlined above would only result from its reuse. The appellant's bat and barn owl survey confirms that the third test, that the

² Bright Environmental (26.05.2017): Towan Stable, Lobb's shop, St Austell, Cornwall Bat and Barn Owl Surveys and Bat Mitigation Report Ref BE341a.

Favourable Conservation Status of the species is maintained within its natural range, could be achieved.

19. The appellant's surveys indicate a fairly low use of the building by protected species. In light of the specific evidence provided by the Council and appellant on this issue, having regard to the tests outlined above, I conclude that there is a realistic prospect of a licence being issued in respect of the disturbance of the European protected species.

Conditions

20. A plans condition is required in the interests of certainty. The proposal has been submitted, consulted upon and considered by the Council as holiday accommodation. Therefore, a condition is required to ensure that it can only be used for holiday accommodation.
21. To safeguard heritage assets, a condition is required to secure archaeological work and building recording. To protect wildlife interests, including European Protected Species, a condition is required to ensure a detailed mitigation strategy is prepared and implemented. These must be pre-commencement conditions to ensure that no construction activities damage these interests. To ensure that there is no increase in off-site flood risk, conditions are also required to ensure that sewage and surface water disposal works are appropriately designed and implemented.
22. I have made minor revisions to those conditions suggested by the Council in the interests of clarity and to ensure compliance with the Planning Practice Guidance.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ND18/NZF/1; ND18/2/NZF/2; ND18/ZF/3/2; and ND18/ZF/3/3A.
- 3) A) No development shall commence until a programme of historic building recording including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions, and:
 1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.B) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).
C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 4) No development shall commence until a detailed strategy to protect bats has been submitted to and approved in writing by the local planning authority. The strategy shall be fully complied with during the course of the development and any mitigation measures installed in accordance with the strategy shall be installed at the times stipulated in the strategy and shall thereafter be maintained as such.
- 5) The development hereby permitted shall not be occupied until sewage disposal works serving the development have been completed in accordance with details that have previously been submitted to and approved in writing by the local planning authority. These works shall be implemented in accordance with the approved details and shall not thereafter be altered or removed.
- 6) The development hereby permitted shall not be occupied until surface water disposal works serving the development have been completed in accordance with details that have previously been submitted to and approved in writing by the local planning authority. These works shall not thereafter be altered or removed.