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## Appeal Decision

Site visit made on 25 February 2020

**by M Bale BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 March 2020**

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**Appeal Ref: APP/D0840/W/19/3241665**

**Buzzard Barn, Landrends, Launceston, Cornwall, PL15 7EN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Malcolm Murray against the decision of Cornwall Council.
  - The application Ref PA19/01401, dated 7 February 2019, was approved on 22 May 2019 and planning permission was granted subject to conditions.
  - The development permitted is to convert a barn to a dwelling (part retrospective).
  - The condition in dispute is No. 2 which states that: Prior to the first occupation of the dwelling hereby permitted the first floor windows on the south-west elevation shall be fitted with obscure glazing and fitted with restrictors which permit the windows to be opened no more than 100mm. The windows shall be permanently retained in that condition thereafter.
  - The reason given for the condition is: To protect the privacy of the occupants of the dwellings known as Cherry Tree House and Landrends Cottage and in accordance with policies 12 of the Cornwall Local Plan Strategic Policies 2010-2030 and paragraph 127 of the National Planning Policy Framework 2019.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. There is reference in the appellant's appeal statement to condition No.3, which relates to the construction of a privacy screen. However, in his final comments, the appellant has confirmed that there is no dispute over the need for that condition. Therefore, I do not consider it any further.
3. The reason for the disputed condition refers to Cherry Tree House and Landrends Cottage. The Council has confirmed that this is an error and that their concern relates to Landrends Farm. The appellant has had the opportunity to respond.
4. At the site visit, I observed that building works are currently underway in relation to the proposal to convert the barn to a dwelling. The windows subject to the disputed condition have been installed and fitted with clear glass.

### Main Issue

5. The main issue is whether the disputed condition is reasonable and necessary to protect the living conditions of the occupiers of Landrends Farm, with regard to privacy.

## Reasons

6. Buzzard Barn is situated close to the garden of Landrends Farm. First floor windows have been inserted in the elevation facing this neighbouring garden that provide clear views into it at close range. Whilst the most affected area would be furthest from the house and so may not be the most sensitive part of the garden, the presence of domestic paraphernalia indicates that this area is used by the occupiers of Landrends Farm.
7. There is a degree of mutual overlooking between the surrounding dwellings. In particular, the nearby property of Landrends House has upper floor windows and a large roof terrace providing panoramic views of the area, including over the garden of Landrends Farm. However, this is at a greater distance from the Landrends Farm garden than the windows at Buzzard Barn. Therefore, I find that there would be a significant additional loss of privacy and harm to the living conditions of the occupiers of Landrends Farm once Buzzard Barn was occupied.
8. The Council notes that it is not always appropriate for bedroom windows to be glazed with obscure glass. However, it is further explained that taking a pragmatic approach, as the windows are already in situ, permission was granted with the disputed condition. The controls outlined in the condition would sufficiently mitigate the loss of privacy that would otherwise result.
9. The appellant has referred to planning guidance, but as that relates to Northern Ireland it is of little relevance to my decision. Nevertheless, some of the principles of that guidance are discussed above. For the reasons given, I find that the condition is reasonable and necessary to ensure compliance with Policy 12 of the Cornwall Local Plan 2010-2030 (LP) which, amongst other things seeks to protect individuals and property from overlooking and an unreasonable loss of privacy.
10. I understand that the appellant did not appreciate the need to obtain a new planning permission before carrying out the development and that the proposal is partly in response to advice obtained through the building regulations process. However, whilst the restrictions imposed by the disputed condition may render the development unable to comply with the building regulations in its current form, a developer must ensure that a proposal is able to comply with all necessary legislation whilst satisfying planning policy requirements. Therefore, the need to comply with the building regulations does not justify a loss of privacy for neighbouring residents.
11. I note some dispute as to whether there has been a significant height increase over that indicated in a previous permission for the site. Whatever the situation in terms of the height and the previously proposed internal configuration, the appellant appears to have made the application in attempt to regularise an alleged departure from that previous permission.
12. It is not my place, within this appeal relating to conditions attached to a planning permission, to consider whether or not a development is in accordance with a previous permission. However, as construction at the site is relatively advanced, there is no substantive evidence that the previous permission provides a realistic fallback position that would otherwise be constructed. I, therefore, attribute it, and any comparison to, it limited weight.

13. I understand that the appellant and his agent may have found it difficult to communicate with the Council during consideration of the application. I also acknowledge that the appellant advised that there were errors in the Council's committee report and that any existing overlooking of Landrends Farm may not have been described to the committee. However, these matters have little to do with the planning merits of the case and so receive little weight in my decision.
14. Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the condition is required to ensure compliance with LP Policy 12. None of the other matters referred to are of sufficient weight to indicate a decision otherwise than in accordance with the development plan.
15. Therefore, I conclude that the appeal should be dismissed.

*M Bale*

INSPECTOR