

Appeal Decision

Site visit made on 5 August 2024

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th September 2024

Appeal Ref: APP/D0840/W/24/3339096

**Treman Barn, Trematon Longlands, Trematon Longlands Saltash,
Cornwall PL12 4QQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Luis Escrig against the decision of Cornwall Council.
 - The application Ref is PA23/08463.
 - The application sought planning permission for construction of agricultural machinery and general purpose storage building without complying with a condition attached to planning permission Ref 00/01065/FUL dated 10 November 2000.
 - The condition in dispute is No 2 which states that: *The building shall be used solely for agricultural purposes as defined in Section 336 of the Town and Country Planning Act, 1990, and for no other purpose whatsoever.*
 - The reason given for the condition is: *Uses other than for agriculture would be inappropriate in the rural location.*
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Decision

1. The appeal is allowed and planning permission is granted for construction of agricultural machinery and general purpose storage building at Treman Barn, Trematon Longlands, Trematon Longlands Saltash, Cornwall PL12 4QQ in accordance with the application Ref PA23/08463, without compliance with condition number 2 previously imposed on planning permission Ref 00/01065/FUL dated 10 November 2000.

Preliminary Matters

2. It is clear that the current application is motivated by the intention of establishing a residential use of the building. Nonetheless, my remit is to consider only the disputed condition. It is not to establish the acceptability of potential future uses, including residential use.

Background and Main Issue

3. In 2000, via application Ref 00/01065/FULL (the original application), the Council granted permission to erect an agricultural machinery and general purpose storage building. This was completed on site in 2002.

4. The appellant's final comments set out that the building has been rented by the appellant since 2010 and it has been used for storing hay in connection with an agricultural enterprise. Whilst I note that the appellant is not currently using the building for such purposes, it appears from the evidence that it was in use until relatively recently. However, the appellant sets out that his business has diversified, and he consequently no longer uses the building.
5. The Council considers that, owing to the site's location within a rural area, away from any farmstead, it is necessary to retain control over the use of the building to prevent future uses which may harm the landscape character of the area. The main issue is therefore whether condition 2 is reasonable and necessary in the interests of preserving the landscape character of the rural area.

Reasons

6. Section 72(1)(a) of the Town and Country Planning Act 1990 as amended (the 'TCPA') sets out that local planning authorities may grant permission subject to conditions which they consider to be '*expedient for the purposes of or in connection with the development authorised by the permission*'.
7. Paragraph 55 of the National Planning Policy Framework (the Framework) establishes that conditions should be considered where otherwise unacceptable development could be made acceptable through their imposition. Paragraph 56 sets out that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
8. The agricultural building lies on the edge of a field within open countryside. The site is accessed from a narrow lane that is bounded by field boundaries that are defined by high hedgerows. Whilst there are occasional buildings located along the lane, some of which are dwellings, the area nonetheless has a strong rural character.
9. Policy 2 of the Cornwall Local Plan Strategic Policies (2016) (the CLPSP) sets out the Council's spatial strategy, which is to maintain the dispersed settlement pattern of Cornwall with the main growth to be accommodated in the main urban areas. Development proposals should consider, amongst other things, the impact of development upon the biodiversity, beauty and diversity of landscape and seascape, character and setting of settlements, wealth of natural resources, agricultural, historic and recreational value of Cornwall. Policy 23, amongst other things, requires development proposals to sustain the local distinctiveness and character of natural environments and take into account and respect the sensitivity of the landscape.
10. The Council consider that condition 2 is necessary given the circumstances outlined in the agricultural appraisal that formed part of the original application, noting the lack of any other building serving this parcel of land.
11. Section 75(2) the TCPA sets out that '*where planning permission is granted for the erection of a building, the grant of permission may specify the purposes for which the building may be used*'. The description of

development in the 2000 permission is: '*Construction of agricultural machinery and general purpose storage building*'.

12. This description thus expressly specifies the intended use of the building as relating to agricultural purposes, and therefore defines the purposes for which the building may be used. Therefore, given the provisions of Section 75(2) of the TCPA, the use of the building would inevitably be set as for agricultural purposes with or without condition 2. Indeed, the evidence indicates that the appeal property has been used as an agricultural building until relatively recently.
13. Whilst I acknowledge that the agricultural building is located in a sensitive location, adjacent to a National Landscape, any proposed future change of use would require an application to be submitted to the Council. In such circumstances, the merits of such a proposal could be assessed, including whether the proposal would lead to demand for a new agricultural building elsewhere on the parcel of land. I am also mindful that the Planning Practice Guidance (PPG) sets out that: '*Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.*'
14. As such, for the above reasons I conclude that disputed condition 2 is not necessary in the interests of preserving the landscape character of the rural area. Consequently, in its absence, no conflict would arise with the relevant provisions of CLPSP Policies 2 and 23. There would also be no conflict with Framework Paragraph 56, described above, or Framework Paragraphs 88 and 89 which, amongst other things, support the development and diversification of agricultural and other land-based rural businesses.
15. Policy 7 of the CLPSP and paragraph 83 of the Framework, which were included in the Council's reasons for refusal, relate to new residential development and therefore have limited relevance to the development comprising the appeal.

Other Matters

16. I have had regard to the comments of Saltash Parish Council, however as set out above, I have found that the disputed condition is not necessary in the interests of preserving the landscape character of the area.

Conditions

17. The PPG sets out that decision notices for the grant of planning permission under Section 73 of the TCPA should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As set out above, the operational development was completed in 2002. As such, it is unnecessary to impose condition 1 of the original permission.

Conclusion

18. For the reasons given above, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition.

Paul Martinson

INSPECTOR