



Appeal Decision

Site visit made on 2 December 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2025

Appeal Ref: APP/D0840/W/25/3368371

Rosevean, Halvasso, Penryn, Cornwall TR10 9BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the TCPA) against a refusal to grant planning permission under section 73 of the TCPA for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr F Roebuck against the decision of Cornwall Council.
- The application Ref is PA25/02241.
- The application sought planning permission for change of use of an agricultural barn to a single dwellinghouse and operational development without complying with a condition attached to the planning permission, which was granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
- The condition in dispute was imposed by paragraph Q.2(3)¹ of the GPDO which stated that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.
- No reason is given for the condition.

Decision

1. The appeal is allowed and planning permission is granted for change of use of an agricultural barn to a single dwellinghouse and operational development at Rosevean, Halvasso, Penryn, Cornwall TR10 9BY in accordance with the application Ref PA25/02241, without compliance with the condition requiring completion within three years that was previously imposed on the planning permission granted by the GPDO following the application for prior approval Ref PA23/08531, subject to the following conditions:
 - 1) Development under Class Q(a) and under Class Q(b), if any, must be completed within a period of 3 years starting with the date of this decision.
 - 2) The development must be carried out in accordance with the details provided in the application reference PA23/08531 unless the local planning authority and the developer agree otherwise in writing.

Applications for costs

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

Preliminary Matters

3. The other appeal on the site, regarding demolition of the agricultural barn, and the erection of a replacement dwelling, under reference APP/D0840/W/25/3368365, is the subject of a separate decision.

¹ The GPDO was amended on 21 May 2024 – the equivalent condition is now numbered Q.2(4) and is reworded to take account of changes to Class Q Permitted development.

Main Issue

4. The main issue is whether it would be lawful to vary or remove the condition and, if it would be, whether any harm would arise from doing so.

Reasons

5. The appeal relates to an agricultural building that was the subject of a prior notification application to the Council under Class Q, Part 3 of Schedule 2 of the GPDO. In its decision letter², dated 15 December 2023, the Council determined that the prior approval of the local planning authority was not required to change the use of the building and convert it to a single dwellinghouse. The decision letter included reference to the condition imposed by the GPDO on the permitted development, requiring that it must be completed within three years of the date of the letter. The application giving rise to this appeal sought to extend that period by three years.
6. Case law³ has held that an application can be made under Section 73 of the TCPA in respect of conditions imposed by a development order, such as is the case with this appeal. However, Section 73(5) prohibits the grant of permission to the extent that it has effect to change a condition, subject to which a previous planning permission was granted, by extending the time within which a development must be started, or an application for approval of reserved matters must be made. The disputed condition refers to the date that the development must be completed, rather than when it should be started, and does not require submission of any reserved matters. The appellant therefore contends that approval of the application would not have been in breach of Section 73(5).
7. The Council acknowledges that the condition does not specifically refer to the date that the development must be started. However, by requiring the development to be completed within three years, the condition clearly also requires the development to be started within three years. In this case, the condition requires the development to be completed by 15 December 2026, so requires the development to be started sometime before then. If I were to allow the appeal, and extend the permitted period for completion by three years, there would be no requirement to start the development prior to 15 December 2026, so granting such a permission would have the effect of extending the time within which the development may be started. It is therefore contended by the Council that the proposal would breach Section 73(5).
8. The appellant has drawn my attention to an appeal decision⁴, which related to a Section 73 application regarding the same condition imposed by the GPDO. The appeal was allowed, and the time for completion of the development was extended. In that case, however, there was a dispute regarding the lawfulness of the proposed Class Q permitted development, and whether prior approval had been granted such that Condition Q2(3) had come into effect. It was only when the Inspector determined the parallel certificate of lawful use appeal that this was resolved. As these specific circumstances do not prevail in the case before me, that decision is of limited relevance.

² Local planning authority reference - PA23/08531

³ Pressland v Hammersmith and Fulham LBC [2016] EWHC 1763 (Admin)

⁴ Appeal Reference: APP/W3330/W/22/3302573

9. The appellant's evidence also includes details of an application under Section 73 that the Council determined⁵. In that case, the Council permitted an extended period for completion for a development, where planning permission had been granted by Class P of the GPDO, subject to a similarly worded condition requiring completion within three years. In that case, however, the development had already been commenced, so the Council's grant of permission under Section 73 did not have the effect of extending the time within which the development could be started.
10. On this issue, the appellant contends that work has already started on the Class Q development, as an access track has been constructed. However, the Council's evidence indicates that the track is not within the red line area denoted on the Class Q application plans. It is not within the remit of this appeal for me to determine the lawfulness of the works that have taken place, but I do not have sufficient evidence before me to conclude that the Class Q development has started. Consequently, the circumstances are not demonstrably the same as the Class P case that the Council permitted.
11. I have not, therefore, been provided with any definitive case law or comparable appeal decisions on which to base my decision. The appellant has, however, provided a legal opinion, which concludes that any change to the condition to extend the period for completion would not offend Section 73(5) as it does not relate either to beginning the development or an application for approval of reserved matters. I give significant weight to this legal opinion. It would appear, from the exchange of correspondence between the parties, that the Council has also received legal advice in support of its position. However, I have not been provided with a copy, so I cannot give it any weight in my decision.
12. To conclude, whilst allowing the appeal would open the possibility of the development starting later than anticipated by the original planning permission, it would not explicitly extend any stated time by which the development must be started. In the absence of any evidence of equal standing from the Council, I find the appellant's legal opinion that the proposal would not breach Section 73(5) to be persuasive.
13. The Council's reason for refusal related solely to the legality of the Section 73 process. It has not provided any evidence to indicate that the extended period for completing the development would result in any harm. Indeed, in the exchange of correspondence with the appellant during consideration of the application, it was suggested that a further application for prior approval would likely be granted. This would result in the same outcome as is being sought under this appeal. I therefore conclude that no harm would arise from allowing an extended period for completion of the development.

Conditions

14. The Planning Practice Guidance says that, to assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have therefore restated the relevant conditions imposed by the GPDO on the original grant of planning permission, but with the amended date by which the development must be completed.

⁵ Local planning authority: PA23/06234

Conclusion

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

Nick Davies

INSPECTOR