



PLANNING UPDATES FOR INFORMATION: SEPTEMBER 2024

[PA24/04139](#) | Application for discharge of a Section 106 planning obligation dated 09/09/1992 in relation to E2/91/00215/O | Lowena Coombe Lane Cargreen Saltash Cornwall PL12 6PB

Landulph Parish Council (15 July 2024):

(Cllrs Gaye and Philip Braund declared an interest and left the meeting for this item).

Cllr Gawith proposed, Cllr Worth seconded, and it was RESOLVED that, as a consultee, the response to Cornwall Council is: Landulph Parish Council rejects the application on the basis that there is proven demand for local housing as stated in the recent housing survey and the applicants have not yet tested the market by putting the property on the market.

Cornwall Council: Email received from Shauna Vandermeulen (Planning Officer) 29.07.24:

Thank you for the Parish Council response to the above proposal which I have set out below:

Landulph Parish Council (15 July 2024)

“Landulph Parish Council rejects the application on the basis that there is proven demand for local housing as stated in the recent housing survey and the applicants have not yet tested the market by putting the property on the market.”

Following assessment of the proposal, officers are minded to recommend the application for approval.

The application seeks to remove a S106 agreement attached to a consent for the construction of a dwelling in the open countryside (outside of the settlement boundary).

The main consideration in this case is therefore whether the S106 agreement still serves a useful purpose.

The S106 agreement in question secures the following:

- Not to use the site for more than one dwelling unit
- Restrict occupation of the dwelling to those persons that are either key sector workers in view of the council and require to live in the Parish of Landulph, or people ordinarily residing or employed in Landulph for the immediately preceding three or more years

It is clear that the intention, and effect of the agreement was to restrict occupation to persons with a local connection. The obligation as drawn up does not include restrictions on the sale price or on the occupiers being in housing need, which would be done in a modern obligation. However, the sale price realised for the dwelling is likely to be lower with the obligation being in place, despite there being no restriction on this. The current value of the house on the open market is likely to be substantial. Even if its value were reduced by the agreement, the price would still be relatively high in terms of its affordability for local people.

The dwelling would not be capable of being defined as 'affordable housing' for the purposes of the definitions as set out within the glossary of the NPPF, even though the obligation might lower its value.

Paragraph 57 of the NPPF 2023 sets out the tests that must be met for planning obligations to be imposed; 57.c states that that obligations should be necessary to make the development acceptable in planning terms. In this case the wording and scope of the agreement is not sufficient to ensure that the house would deliver affordable housing to those in housing need. Whilst originally imposed to make a dwelling in the countryside acceptable, the mechanisms within the obligation have only an indirect bearing on current planning policy by restricting second homes and by some reduction in the price of the dwelling. However, it would not deliver affordable housing for people in housing need and would not implement planning policy, namely, Policy 8 and 9 of the CLP which cover affordable housing and housing in rural areas. Whilst officers appreciate that restricting use to prevent second home ownership is useful, there is no current planning policy to back this position.

It is therefore concluded that the S106 agreement no longer serves a useful purpose. For the reasons as discussed above, there is no requirement to carry out a marketing exercise as there would be, for example, on an agriculturally tied dwelling.

The Affordable Housing team have been consulted and raise no objection to discharging the agreement.

I appreciate your comments which will be included in my report. However, following careful consideration of all the material planning considerations, in this instance I feel that it is appropriate to recommend approval of the application for the reasons as discussed above. Under these circumstances, please can you confirm that on this occasion we may agree to disagree? If I do not hear from you within the next 5 working days, I will assume that this is the case.

Landulph Parish Council:

Email sent from the Clerk to Parish Councillors via delegated authority on 29.07.24 (Cllrs G and P Braund declared an interest). The other 5 Parish Councillors responded and the following response to the Planning Officer was sent on 01.08.24:

Landulph Parish Council agrees to disagree.

Landulph Parish Council wishes to add the following comments:

Landulph Parish Council has concerns about the number of s106 that are being removed from applications, which seems to defy the point of having a local housing need restriction at all.

Landulph Parish Council has concerns that Cornwall Council seems to be making assumptions with its statement "The current value of the house on the open market is likely to be substantial. Even if its value were reduced by the agreement, the price would still be relatively high in terms of its affordability for local people".

Landulph Parish Council feels the property should be marketed for at least 6 months with the conditions of the s106 applied. A family in Landulph should be given the chance to buy, potentially freeing up another local property of a lower value to the open market - then a potential new family who could afford a property at a lower amount could become members of our community. We know from our housing survey that there is a local housing need of 3-4 bedroom houses to buy in Landulph.

Cornwall Council: S52/S106 and discharge of condition apps

[PA24/05734](#) | Proposed removal of 25m of hedgerow. | Land North West Of North Wayton Farm Landulph Cornwall PL12 6QQ

Landulph Parish Council: No objection.

Sent to Landulph Parish Councillors via email delegated authority on 31.07.24, as the deadline for consultee comments is before the September Parish Council meeting,

Cornwall Council: No objections (OHL/OHE/HG apps).

[PA24/05471](#) | Listed building consent for proposed alterations to previous listed building consent PA23/08444. Please see design and access statement for full proposal. | Clifton Farmhouse Landulph Saltash Cornwall PL12 6QG

Landulph Parish Council: No objection.

Sent to Landulph Parish Councillors via email delegated authority on 31.07.24, as the deadline for consultee comments is before the September Parish Council meeting.

Cornwall Council: Response awaited.

[PA24/00767/PREAPP](#) | Pre-application advice for 2 (No.) dwellings. | West Coombe Landulph Cross Landulph Saltash Cornwall PL12 6NE

Landulph Parish Council: Landulph Parish Council supports the concept about the two properties but has concerns with the proposed access, and feels the existing access should be used, and improved, for the two new properties, in line with the Highways Manager recommendations of 09.07.2024.

Landulph Parish Council is very concerned about the proposed pavement on the Highway and agree with Cornwall Highways' recommendation that an alternative solution would be a footway behind the hedge within the site.

Cornwall Council: Closed – advice given.

[PA23/03127](#) | Change of use of public house to dwelling | Accommodation The Spaniards Inn Fore Street Cargreen Saltash Cornwall PL12 6PA

Landulph Parish Council: Raised a Cornwall Council enforcement enquiry on 07.11.23 (and chased a response March 2024 and June 2024):

PA23/03127: Landulph Parish Council wishes to notify Cornwall Council that the managers accommodation is being used contrary to the planning officer's decision dated 4/10/23 to refuse the use of the 1st floor managers accommodation as a holiday let.

Cornwall Council 20.08.24:

Due to unforeseen circumstances this matter has had to be re-allocated to me to deal with. I can confirm that I have been to the site and inspected the properties.

PA23/03127 - Change of use of public house to dwelling. The 'public house' was comprised of the ground floor of the building only, the accommodation above is a self-contained and separate unit of residential accommodation (C3). I can find no evidence of a planning condition requiring the two uses to be interdependent, historically.

The Planning, Design & Heritage Statement submitted with PA23/03127 states:

3.1 The proposals include the change of use and conversion of the former public house at ground floor to a single dwelling.

3.2. The existing 3 bed managers accommodation at first floor level will remain in the same layout but will be operated as a holiday flat and will therefore be ancillary to the new dwelling at ground floor level. The owners wish to retain control of this apartment and it will therefore be owned and managed by them as a holiday let.

The plans submitted with PA23/03127 show:

It is clear that the first floor accommodation has not physically changed. A 'holiday use' at present remains a C3 use and therefore no material change of use has occurred by using the flat as a holiday letting property. The use of the term 'ancillary' at para 3.2 of the Planning, Design & Heritage Statement submitted with

PA23/03127, is connected to the proposed change of use of the public house, whereby the owner of the new C3 unit would retain control of the flat. This of course was refused but it does not change the facts from a planning law perspective, the flat remains a C3 dwellinghouse.

The means of access to the flat is separate to the accesses to the public house. In circumstances where access to a managers' accommodation could only be gained internally, i.e., via an internal staircase within part of the public house, I'd concur that this would be a symbiotic or parasitical relationship where one use is interdependent or ancillary to the other. This is not the case in these circumstances.

In view of the above facts, I am of the view that there is no ongoing breach of planning control and my case will now be closed. Thank you for bringing this matter to the attention of the Council.