

Cornwall Council

**Correspondence Address: Cornwall Council Planning Dept,
New County Hall, Treyew Rd, Truro, TR1 3AY**

Email: planning@cornwall.gov.uk

Tel: 0300 1234151

Web: www.cornwall.gov.uk



Application number: PA25/01841

Agent:

Koha Architects Ltd
Tremough Innovation Centre
Penryn Campus
Penryn
Cornwall
TR10 9TA

Applicant:

Mr T Boulton
The Trustees of The MusicAbility
Foundation
10 Parade Street
Penzance
Cornwall
TR18 4BU

**Town And Country Planning Act 1990 (As Amended)
Town And Country Planning (Development Management Procedure) (England)
Order 2015**

Grant of Conditional Planning Permission

CORNWALL COUNCIL, being the Local Planning Authority, **HEREBY GRANTS CONDITIONAL PERMISSION**, subject to the condition set out on the attached schedule, for the development proposed in the following application received on 7 March 2025 and as shown on the plans attached to the original Decision Notice:

Description of Development:

Proposed change of use for whole building to Sui Generis (venue for live music performance), E (c, e, g (i)), F1 (e) and F2 (b). Reconfiguration of ground floor space, construction of temporary timber access ramp and renovation of existing windows internally and installation of secondary glazing without compliance of condition 2 of decision notice PA22/11075 dated 15.02.2024

Location of Development:

Musicability Centre
10 Parade Street
Penzance
Cornwall
TR18 4BU

Parish:

Penzance

YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES.

DATED: 13 June 2025

Louise Wood - Service Director Planning and
Housing (Chief Planner Officer)

SCHEDULE ATTACHED TO APPLICATION & DECISION NO: PA25/01841

CONDITIONS:

- 1 The development hereby permitted shall be begun before 15 February 2027.

Reason: In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2 The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interests of proper planning.

DATED: 13 June 2025

Louise Wood - Service Director Planning and
Housing (Chief Planner Officer)

PLANS REFERRED TO IN CONSIDERATION OF THIS APPLICATION:

Proposed 251/1120 received 07/03/25

Proposed 251/1000 received 07/03/25

Proposed 03/066 received 07/03/25

Proposed 251/1110 received 07/03/25

DATED: 13 June 2025

Louise Wood - Service Director Planning and
Housing (Chief Planner Officer)

ANY ADDITIONAL INFORMATION:

- The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Cornwall Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply (INSERT the list indicating the exemptions which are considered to apply).

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.



Phil Mason
Head of Planning, Housing and
Regeneration

DATED: 13 June 2025

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4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- iv) the application for planning permission was made before 2 April 2024;
- v) planning permission is granted which has effect before 2 April 2024; or
- vi) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- iii) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- iv) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.6 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.7 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.8 Self and Custom Build Development, meaning development which:

- iv) consists of no more than 9 dwellings;
- v) is carried out on a site which has an area no larger than 0.5 hectares; and



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DATED: 13 June 2025

vi) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990
If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and



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ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

*** Officer to read - the following is suggested text for inclusion in the decision notice where the local planning authority considers that the permission falls within paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990. ***

The permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 would apply if the permission were subject to the biodiversity gain condition.

In summary: Biodiversity gain plans would be required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).

- Please note that the proposed development set out in this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). However, as this application has been made pursuant to Section 73 of the Town and Country Planning Act 1990, there will be no CIL charge on this permission as there is no net increase in floorspace between the original pre-CIL permission and this S73 permission.

In dealing with this application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning application, on this occasion this has included:

Discussions/negotiations ongoing with LPA throughout determination of planning application

Dedicated phone number of the case officer for the Applicant/Agent



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Head of Planning, Housing and
Regeneration

DATED: 13 June 2025

NOTES

Appeals to the Secretary of State

If the applicant is aggrieved by the decision of the local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then they may appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990. If you want to appeal, then you must do so within 6 months of the date of this notice (or 12 weeks from the date of this notice in the case of householder appeals made in relation to applications submitted on or after 6 April 2009). Appeals must be made to the Planning Inspectorate using a form which can be obtained from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.co.uk/pcs. A copy of the completed appeal form must also be submitted to the Council.

Please Note:- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK. (<https://www.gov.uk/government/collections/casework-dealt-with-by-inquiries>).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on Cornwall Council. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of service of the enforcement notice.



Koha Architects Ltd
Tremough Innovation Centre
Penryn Campus
Penryn
Cornwall
TR10 9TA

Your ref: Section 73 for changes to PA2...
My ref: PA25/01841
Date: 13 June 2025

Dear Sir/Madam

**Proposed change of use for whole building to Sui Generis (venue for live music performance), E (c, e, g (i)), F1 (e) and F2 (b). Reconfiguration of ground floor space, construction of temporary timber access ramp and renovation of existing windows internally and installation of secondary glazing without compliance of condition 2 of decision notice PA22/11075 dated 15.02.2024
Musicability Centre 10 Parade Street Penzance Cornwall**

With reference to this planning application, I enclose the Council's decision notice granting permission..

If conditions have been included that must be complied with before the commencement of the development, e.g. "No development shall commence before ...", and this is not done, the development cannot be validly commenced even if it is within the time limit set by Condition.

If details are required I look forward to receiving them. Application forms can be found on https://ecab.planningportal.co.uk/uploads/appPDF/D0840Form027_england_en.pdf.

Your attention is drawn to the recent change of fees to discharge planning conditions under The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012:

£116 (per request) for applications not falling within fee categories 6 or 7 (non-householder applications)

£34 (per request) where the request relates to an application for works to an existing dwelling, or within the curtilage of such, falling within fee categories 6 or 7 (householder applications only)

No fee – for applications to discharge conditions relating to a Listed Building Consent.

You may wish to take the opportunity to submit details to discharge more than one condition per request.

Yours faithfully

Diane Boardman

**Principal Development Officer
Development Management Service
Tel: 01872 322222**

Development Management Service
Cornwall Council

County Hall, Treyew Rd, Truro, TR1 3AY
planning@cornwall.gov.uk