
Appeal Decision

Site visit made on 17 September 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Appeal Ref: APP/X1118/W/19/3232715

Twinmoor View, Road Past Roborough Farmhouse, Barnstaple EX31 4JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ian Berwick against the decision of North Devon District Council.
 - The application Ref 65980, dated 10 December 2018, was refused by notice dated 14 February 2019.
 - The application sought planning permission for conversion of building to form one dwelling without complying with conditions attached to planning permission Ref 62729, dated 22 September 2017.
 - The conditions in dispute are Nos 3, 4 and 5 which state that:
"(3) *Within two months of the date of this decision, details of an alternative pedestrian and vehicular access arrangements reflecting either of the arrangements noted in this Agenda Report so as to serve as the sole pedestrian and vehicular access to the application site shall be submitted to and approved in writing by the LPA.*"
"(4) *The alternative access arrangements required by Condition 3 above shall be practically and substantially completed to the written satisfaction of the LPA within nine months of the date of this Decision Notice and thereafter retained as the sole pedestrian and vehicular access to the application site.*"
"(5) *Within 9 months of the date of this Decision Notice, use of the existing access in connection with the application site, other than to serve the properties known as The Barns and The Gables, shall permanently cease and exclusive and sole access to the application site shall be via the alternative access arrangements required by Condition 3 above.*"
 - The reason given for the conditions is:
"*In the interests of residential amenity*".
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Decision

1. The appeal is allowed and planning permission is granted for conversion of building to form one dwelling at Twinmoor View, Road Past Roborough Farmhouse, Barnstaple EX31 4JG in accordance with the application Ref 65980 dated 10 December 2018, without compliance with condition numbers 3, 4 and 5 previously imposed on planning permission Ref 62729 dated 22 September 2017 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 21 April 2020.
 - 2) The development hereby permitted shall be carried out in accordance with the plans submitted as part of the application, numbers

JW/0802/0212 200-04 and JW/0802/0714/ 200-01 A and received on 21st April 2017, ('the approved plans').

Background and Main Issue

2. Twinmoor View lies in the countryside to the north of Barnstaple. The appeal site and adjoining land accommodate three closely grouped buildings: a barn, a shippen and a former stable block. Access to the site is gained via an unadopted access lane to the southwest, which passes close to two properties known as The Barns and The Gables. Planning permission has previously been granted¹ to convert the stable block into a holiday unit and to change the use of the barn to a rural workshop. The permitted access to these developments was via the existing unadopted lane.
3. The planning permission that gives rise to the disputed conditions was for the conversion of the barn to a dwelling. The conditions required an alternative access to be provided to avoid traffic passing The Barns and The Gables. A scheme for the alternative access was approved by the Council. Subsequently, planning permission was granted² to convert the shippen to holiday accommodation, with a condition preventing its implementation until the alternative access has been provided.
4. The alternative access arrangements have not been provided within the timescale required by disputed condition 4. Various reasons for the delay have been suggested, but it appears that the higher than expected cost of the works is a significant factor. As a result, the appellant applied for the removal of the disputed conditions, to allow the approved dwelling to be served by the existing unadopted access. The main issue in this appeal is, therefore, the effect that removing the conditions would have on the living conditions of the occupants of The Barns and The Gables, with regard to noise and disturbance from vehicle movements.

Reasons

5. For most of its length, the unadopted access road from the southwest has the character of a country lane. However, on approaching The Barns and The Gables, the character changes. Onward access to the appeal site is gained through an electrically operated gate, and across a gravel track in front of The Barns and The Gables, before entering the steep unmade track which serves the appeal building. The area between the electric gate and the steep track to the appeal site has a quiet, enclosed, domestic character. The rear elevations of both dwellings are close to the gravel track and have numerous windows looking out onto it.
6. Vehicle movements to and from the appeal site, across this area of land, must pass close to the windows in the rear elevation of the houses. The width and character of the route dictate that these movements are at slow speed, so the noise generated by passing vehicles is limited. However, in this otherwise tranquil location, a significant increase in traffic movements would be harmful to the living conditions of the occupants.
7. The existing buildings on the land already give rise to some traffic movements across the track, as a result of the owner's visits to the site. Planning

¹ Local Authority reference: 46859

² Local Authority reference: 63846

permission has also been granted to change the use of all the buildings on the site. The barn, which is the subject of this appeal, has an approved B1 use, and the former stable block and shippen both have permission for conversion to holiday accommodation. I saw that work is quite well-advanced on the conversion of the former stable block, but there is not currently a B1 use in the barn, and no work has commenced on the shippen.

8. Whilst none of the approved uses is yet in place, the evidence before me indicates that the planning permission granted under reference 46859, for a B1 use of the barn and holiday accommodation in the former stables, is extant. This permission relied on the current access arrangements. The conversion of the former stables is already underway, and its completion and occupation are not dependent on the outcome of this appeal. The conversion of the shippen to holiday accommodation can only be implemented if an alternative access is provided, so could not progress if the appeal is allowed. Therefore, the effect of removing the conditions would be to allow the traffic from a dwelling and a unit of holiday accommodation to use the existing access, rather than the traffic from a B1 use and a unit of holiday accommodation. As the holiday accommodation is common to both scenarios, it is the difference between a B1 use and a dwelling that is relevant.
9. The appellant suggests that the B1 use, if implemented, could be expected to result in 17 vehicle movements per day, whereas the residential use would be likely to generate eight. Consequently, it is argued, there would be a reduction in potential traffic movements using the existing access. The Council has not contested the projection of eight vehicle movements per day for a dwelling. As this is in line with normal forecasts for a dwelling in this type of location, I agree that it is a reasonable estimate. The appellant's estimate for the potential level of traffic from the permitted B1 use appears to stem from discussions with the Highway Authority some years ago, prior to a planning appeal decision³ that considered the issue.
10. The Inspector, in that decision, concluded that the projected 17 traffic movements per day from a B1 use was an exaggeration, as it was based only on floorspace, and did not take account of the characteristics of the site. I saw that the access to the building was of limited width, steep, unmade and winding. Although I observed that a transit van had gained access to the site at the time of my visit, anything larger would not be able to reach the building. There is limited space around the building for parking, and the site is some way away from services. I therefore agree with the previous Inspector that, although it would be appropriate to take an estimated figure for traffic movements that are permitted from the site, this should reasonably take on board the capability and constraints of the site.
11. Nevertheless, the building is soundly constructed, has services, and could readily be brought into a B1 use. Given the location of the building and the nature of the access, it would not be attractive to a business that relied on regular deliveries, or customers visiting the building. However, it would be suitable for a use such as a craft workshop, where the user could bring their own materials to the site and deliver the final products to customers in their own vehicle. If such a use was carried out by a single occupant, arriving at the site in the morning and leaving in the evening, with one return trip during the

³ Appeal Decision APP/X1118/A/14/2227707

working day to visit a customer, it would generate four traffic movements. The building is, however, large enough to accommodate more than one person. Two people occupying the building in this way would result in very similar levels of traffic to the proposed residential use.

12. In the absence of an actual B1 use in the building, any projections of future traffic movements are a matter of conjecture. However, any B1 use would result in some traffic movements. I agree with the previous Inspector that such movements are likely to be below the 17 suggested by the appellant. However, even allowing for the constraints of the site, they could be very similar to the level of traffic that is forecast for the proposed dwelling. Even taking a very cautious approach to forecasting the traffic that may be generated by a B1 use, a residential use would only be likely to result in about four additional traffic movements per day. Spread throughout the day, increased vehicle movements of this scale would not have a significant impact on the living conditions of the occupants of The Barns and The Gables.
13. I therefore conclude that the disputed conditions are not reasonable or necessary to protect the living conditions of the occupants of The Barns and The Gables, with regard to noise and disturbance from vehicle movements. The development without the disputed conditions would therefore comply with Policy DM01 of the North Devon and Torridge Local Plan 2011 – 2031 (adopted 2018), which supports development that does not significantly harm the amenities of any neighbouring occupiers or uses.

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 imposed a condition requiring the development to commence within 3 years of the date of the original planning permission. I have also reimposed condition 2, which identifies the approved plans. I have not, however, reimposed condition 6, as it has no relevance without conditions 3, 4, and 5.

Conclusion

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

Nick Davies

INSPECTOR