



Appeal Decisions

Site visit made on 3 June 2020

by Roy Curnow MA BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2020

Appeal A Ref: APP/X1118/C/19/3241357

Ty-Nant, 1 St Marys Road, Croyde, Braunton, Devon EX33 1LF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Joel Briggs of Merchant Holdings against an enforcement notice issued by North Devon District Council.
 - The enforcement notice, numbered 10631, was issued on 12 November 2019.
 - The breach of planning control as alleged in the notice is within the last four years unauthorised development consisting of the conversion of a one first floor flat [sic] and offices/store into three 1 bedroom flats.
 - The requirements of the notice are: (1) Cease the use of the building edged in blue on the attached location plan as three flats; (2) Reinstate the first floor of the building to no more than one flat and offices/store; (3) Remove any kitchen and cooking facilities from the first floor of the building except for one flat; (4) Remove all wash facilities including any toilet, bath, shower, sink and taps from the first floor of the building except for one flat; and (5) Remove any rubbish or debris resulting from compliance with steps 1-4 from the land.
 - The period for compliance with the requirements is within nine months from the date when this notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/X1118/W/19/3241182

Ty-Nant, 1 St Marys Road, Croyde, Braunton, Devon EX33 1LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Joel Briggs of Merchant Holdings against the decision of North Devon District Council.
 - The application Ref 70264, dated 24 July 2019, was refused by notice dated 24 September 2019.
 - The development proposed is conversion of first floor flat and offices/store into three 1 bedroom flats.
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Decisions

1. Appeal A (APP/X1118/C/19/3241357)

It is directed that the enforcement notice is corrected by

- adding 'first floor of the' before 'building edged in blue...' to requirement (1) of the notice.
2. Subject to the correction, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

3. **Appeal B** (APP/X1118/W/19/3241182)

The appeal is dismissed.

Procedural Matters

4. In the light of the information before me, the nature of the appeals and the situation regarding the Covid-19 pandemic, I wrote to parties asking for their views on my suggestion that I could visit the site unaccompanied. Neither party objected, so I undertook my visit on this basis.
5. The appeal form related to Appeal B refers to the appellant's company as 'Merfant Holdings'. The appellant clarified that this should have said 'Merchant Holdings', and I have used the latter in my heading, above.
6. The reasons for issuing the notice in Appeal A and the reasons for refusal in Appeal B are the same. Although I have considered each appeal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
7. Appeals were made under references APP/X1118/C/19/3241358 and APP/X1118/C/19/3241359 on ground (a). However, these appeals were not fee exempt and, as no fee was paid, the appeals lapsed, and no further action was taken on them.

Matters concerning the notice

8. It is apparent from submissions that it is the conversion of the first floor to create three 1 bedroom flats which the Council seeks to address through its notice. Requirement (1) refers to the building as a whole, rather than just its first floor. I have a duty to ensure that the notice is in order. Taking the notice as a whole, it is clear that it is intended to attack the three flats on the first floor and no other part of the building.
9. Wide-ranging powers are available to me under Section 176(1)(a) to correct any defect, error or misdescription in the notice, provided I am satisfied that the correction will not cause injustice to the appellant or the Council. It is apparent from their arguments that parties have given consideration to the implications arising from the creation of the three flats and that correcting the notice in the manner set out, above, would not cause injustice.

Appeal A ground (a) appeal, the deemed application and Appeal B

10. The main issue in both Appeal A and Appeal B is whether the development makes adequate provision for off-road parking and the effect of any lack of such provision on highway safety.

Reasons

11. The site, which comprises a shop/café at ground floor level, with 3 one-bedroom flats at first floor level that are the subject of the appeals, lies at the centre of the village. It is very close to the majority of the services available in the village, as well as a bus stop from which buses run to the larger settlements in the area. The principle of the development in the village is supported by Council policies.

12. The majority of roads at the centre of the village near the site, which are relatively narrow, are subject to parking restrictions. These preclude on-highway parking between Easter and 30 September. This, together with the many tourist-related uses in the village and surroundings, reflect the popularity of the village as a holiday destination and the pressure for parking that this brings in holiday periods.
13. Paragraph 13.47 of the supporting text to Policy DM06 of the North Devon and Torridge Local Plan 2011-2031, adopted October 2018 (LP) explains how the provision of car parking facilities can contribute to the safe and free flow of traffic. It states that developments must provide adequate parking that actively aims to reduce the likelihood of inappropriate parking on the highway that might otherwise conflict with these aims. Amongst its terms, LP Policy DM06 states that development proposals will be expected to provide an appropriate range and scale of parking having regard to: the site's accessibility and sustainability; the availability of public transport; the provision of safe walking and cycling routes; and the nature of the development.
14. It is claimed¹ that the development would not increase traffic generation when compared to either the previous use of the property as a 5-bedroom house in multiple occupancy or that approved, for use as a two-bedroom flat and office/storage². This is not countered by the Council. The case has not been made, however, that there is no need to provide parking for the development. I find that there is a need to provide off-highway parking and that one space for each of the three flats is appropriate to the needs of the development, given the criteria in LP Policy DM06(1).
15. Parking to serve the flats is not proposed on-site. The appellant proposes the alternative of obtaining Residents' Parking Permits (permits) for parking in Croyde Car Park. This car park lies close to the site and the two are linked by a safe and easy walk. In the first instance, the appellant would provide an annual permit for each flat with residents obtaining their own permits thereafter.
16. From the evidence, Croyde is undoubtedly very busy during holiday periods, especially the summer and this is reflected in the on-highway parking restrictions. The key to the success of the appellant's proposal lies in being able to provide off-highway parking for the residents of the flats throughout the holiday season. Therefore, undertaking the Local Car Parking Capacity Study in mid-October, when parking pressure would be likely to be far lower, does not provide convincing evidence of the availability of parking in the summer months.
17. Furthermore, I have not been provided with evidence to show that the permits reserve a space for their holders; therefore, the scheme could just provide a holder with a right to park in the car park. In this scenario, if the car park were full when permit holders arrive, they would have to find an alternative. This would be likely to result in short-term on-highway parking occurring, for example as residents wait for a space to become available in Croyde Car Park or cars are unloaded close to the flats prior to looking for somewhere else to park. There is some on-highway parking provision at

¹ In the Technical Statement submitted with the refused planning application – Trace Design, August 2019

² Council reference 62414

Combas Lane. However, it is likely that pressure for its use in the summer would be intense. In any event, this is some distance away and would not provide a particularly attractive alternative in poor weather or where goods had to be carried to the flats.

18. Furthermore, save for the appellant stating that he would provide permits for residents for a year, no workable mechanism for ensuring that residents obtained permits has been proposed. In the absence of this, and should the appellant's initial provision fail to encourage residents of the flats to apply for a permit, the result would be that residents would park on the highway. The same result would occur should demand exceed the supply of permits with the occupants of the flats unable to obtain one, or that the regime for selling permits changed or ceased.
19. The lack of parking at the site to serve the flats would be likely to lead to on-highway parking close to the flats, where the roads are relatively narrow. Whilst this would not cause harm outside the period for parking restrictions, vehicles parked in this manner during the holiday season when the evidence suggests that the village is very busy would interfere with the free flow of traffic and cause danger to highway users contrary to the terms of LP Policy DM06.
20. These drawbacks weigh definitively against the development that has been undertaken. However, I give little weight to the Council's argument that were the residents of the flats to use the Croyde Car Park, this would effectively result in a loss of spaces to the general public. This would be a result, but it seems contradictory to run such a scheme and then use what is an obvious effect of that scheme as a reason for refusal.

Other Matters

21. The site lies within the Croyde Conservation Area (CA). Notwithstanding that the Council did not consider that the impact of the development on the CA was an issue, the statutory test in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
22. The nature of the development is such that the character and appearance of the CA would be preserved, in accordance with the statutory test and the provisions of LP Policy DM07.

Appeal A Conclusion

23. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended

Appeal B Conclusion

24. For the reasons given above and taking account of all matters raised I conclude that the appeal should be dismissed.

Roy Curnow

INSPECTOR