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# Appeal Decision

Site visit made on 12 August 2020

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 September 2020**

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**Appeal Ref: APP/K1128/W/20/3252775**

**The Linhay, Lower Westerland Barns, Marldon TQ3 1RU**

- 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 Steve Porter against the decision of South Hams District Council.
  - The application Ref 0421/19/FUL, dated 8 February 2019, was refused by notice dated 27 November 2019.
  - The development proposed is change of use of the building known as "The Linhay" from ancillary accommodation into a separate residential dwelling with associated access and residential curtilage.
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## Decision

1. The appeal is allowed and planning permission is granted for change of use of the building known as "The Linhay" from ancillary accommodation into a separate residential dwelling with associated access and residential curtilage at The Linhay, Lower Westerland Barns, Marldon TQ3 1RU in accordance with the terms of the application, Ref 0421/19/FUL, dated 8 February 2019, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A1352 Location; A1352 18 S01 - As Built Details; A1352 18 P01 Rev D - Planning Proposals; Flood Risk Assessment 0391 Rev C
  - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Schedule 2, Part 1, Classes A – H, including the erection of extensions, porches, garages or car ports, the stationing of huts, fences or other structures shall be carried out on the site other than those expressly authorised by this permission.

## Main Issue

2. The main issue is the impact of the development on highway safety.

## Reasons

3. The appeal site lies in open countryside between Marldon and Paignton. It is one of a courtyard of traditional stone barns that have been converted to five

dwelling following the grant of planning permission in 2006. The evidence indicates that the ground floor of the appeal building was originally approved as car-parking for the other converted barns under the original scheme. However, planning permission has subsequently been granted for alternative parking facilities, and for the use of the appeal building as residential accommodation, ancillary to the adjoining dwelling to the northwest, Unit 1. The barn is now in different ownership, and it is proposed to convert it to a separate dwelling, with two car-parking spaces retained within the ground floor.

4. Vehicular access to the site is obtained from a narrow and winding country lane, which links Totnes Road, to the northwest, with the A380, to the south east. The Highway Authority's objection to the proposal relates to the increased use of the junction of the lane with Totnes Road.
5. Highway improvements were carried out in the vicinity of this junction, in association with the original planning permission for the conversion of the barns. This involved the provision of rumble strips, new advanced warnings, signage, and road markings. Nevertheless, visibility to the right for emerging vehicles is still restricted; the Highway Authority's statement says that it is approximately 20 metres, whereas estimated traffic speeds indicate that in the region of 50 metres would be required to comply with the recommended distances in Table 7.1 of Manual for Streets (MfS). From the evidence, including my own observations and use of the junction, I have no reason to conclude differently. Visibility at the junction is therefore well below the standard recommended by MfS.
6. The use of the building as a dwelling will generate traffic movements to and from the site. The Highway Authority estimates that this would be in the region of 5 – 6 daily two-way movements. The approved use of the building for residential purposes ancillary to Unit 1 already has the potential to generate traffic. It is a large building and could accommodate a number of additional family members or guests. However, it is unlikely that an ancillary use would result in the same level, or continuity, of traffic as a separate residential dwelling. The proposed use would, therefore, result in a net increase in traffic, but at a lower level than would be the case for a completely new dwelling.
7. The appellant suggests that not all the traffic associated with the dwelling would use the Totnes Road junction, as there are alternative options, depending on the chosen destination. However, the alternative route to the south involves travelling along a very narrow lane, with few passing places, and culminating in a very substandard junction with the A380. The alternative route to the north, via Westerland Lane, would also involve negotiating a tortuous, narrow lane, which is signposted as not suitable for wide vehicles. On the evidence, including my own experience of driving both routes, I find that neither is likely to be regularly used as an alternative option. Most of the traffic generated by the development would, therefore, use the Totnes Road junction.
8. The evidence shows that there has been one slight injury accident at this junction in the last ten years. This was in 2013, so there have been no reported accidents in the last seven years. The current use of the junction does not, therefore, give rise to regular accidents. Nevertheless, I drove out of the junction several times as part of my site visit, and caution is necessary to complete the manoeuvre safely. A significant increase in the use of the junction would, therefore, be likely to be harmful to highway safety.

9. However, the junction is already well-used. As well as the five converted barns, there are about 12 other dwellings served by the lane, together with several agricultural buildings. The junction therefore already caters for a significant level of traffic. The limited vehicle movements generated by the conversion of the ancillary residential accommodation to a dwelling would not, therefore, result in a material increase in the existing level of risk at the junction.
10. The Highway Authority has drawn my attention to a recent appeal decision<sup>1</sup>, relating to a site on the opposite side of the lane. In that decision the Inspector concluded that an increase in the use of the junction, from one additional dwelling, would not be likely to give rise to a materially harmful increased accident risk, but that a greater number of additional dwellings or greater cumulative impact would be a concern. The appeal was dismissed for other reasons. In terms of highway considerations, my conclusion concurs with that decision. Bearing in mind the generally restrictive policies relating to development in this locality, as highlighted in the Officer's Report, it is unlikely that cumulative impacts are likely to arise.
11. I therefore conclude that the proposal would not be harmful to highway safety, so would comply with Policy DEV29 of the Plymouth & South West Devon Joint Local Plan 2014 – 2034, which seeks to achieve safe and satisfactory vehicular access. The proposal would also accord with paragraphs 108 and 109 of the National Planning Policy Framework 2019, which seek to avoid unacceptable impacts on highway safety.

### **Other Matters**

12. Concern has been raised in representations regarding the inadequacy of car-parking for the converted barns. The proposal would, however, provide two car-parking spaces within the building, without reducing the space available for other occupants to park their cars.
13. The building already has an approved use for residential purposes, albeit ancillary to Unit 1. Therefore, the overlooking impacts raised in letters of objection could already occur. The proposal includes high-level ground floor windows, and slatted screens to the first-floor windows that look towards the opposite barn. Measures are also included to avoid access to the raised garden area at the rear. Overall, therefore, the level of privacy within the complex will be maintained.
14. The proposal is for the change of use of an existing building, so will not result in an increase in any existing surface water drainage problems.
15. It is contended that approved landscaping required under previous planning permissions has not been carried out. I cannot conclude from the evidence whether this is the case. However, my decision relating to the use of the building will not affect the ability of the Council to enforce any outstanding planning requirements.

### **Conditions**

16. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty.

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<sup>1</sup> Planning Inspectorate Reference: APP/K1128/W/20/3244829

17. The council has suggested three other conditions. The first of these relates to the pre-commencement submission of surface water drainage details. However, the change of use of the building from ancillary accommodation to a separate dwelling, would not result in the provision of any additional buildings or hard-surfacing. There would, therefore, be no increase in surface water run-off, so a pre-commencement condition would not be necessary or reasonable.
18. The second suggested condition relates to ground contamination. Permission has, however, already been granted for the use of the building as ancillary residential accommodation, and much of the conversion work has already been carried out. Any issues regarding contamination would, therefore, already have been encountered, so the condition would not be necessary or reasonable.
19. I agree, however, that a condition is required to remove some permitted development rights, in order to protect the historic character and appearance of the building. I have altered the wording, in the interests of clarity and precision, and to better reflect the advice in the Planning Practice Guidance.

### **Conclusion**

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

*Nick Davies*

INSPECTOR