



## Appeal Decision

Site visit made on 21 December 2021

**by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)**

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

**Decision date: 18 January 2022**

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**Appeal Ref: APP/X1118/W/21/3281827**

**The Stores, 1 Ty-Nant, St Marys Road , Croyde 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 72770, dated 11 January 2021, was refused by notice dated 16 March 2021.
  - The development proposed is the conversion of first floor flat and office/store into 3 flats.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs was made by Mr Joel Briggs of Merchant Holdings against North Devon District Council. This application is the subject of a separate Decision.

### Main Issues

3. Although the Council has given two reasons for refusal on the decision notice, having reviewed the evidence and submissions I have considered it appropriate to identify a single main issue.
4. The main issue in this appeal is whether the proposed development provides for adequate parking provision and the effect of those proposed parking arrangements on highway safety.

### Reasons

5. The appeal site is located within the core of the village at Croyde, adjacent to the junction which joins Hobb's Hill, Jones's Hill and St Mary's Road, and comprises a substantially scaled building which, at the time of my visit, appeared to include a restaurant at ground floor level. The evidence before me indicates that the first floor of the appeal building comprises a flat with office and stores.
6. Planning history for the site indicates that recent appeals<sup>1</sup> (the Recent Appeals) considered a retrospective application for the conversion of the first floor at the appeal building into three, one bedroom, flats. In the Recent Appeals, the Inspector considered parking provision with regards to Policy DM06 of the

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<sup>1</sup> Appeal References: APP/X1118/C/19/3241357 & APP/X1118/W/19/3241182

North Devon and Torrington Local Plan (2018) (the Local Plan). The appeal scheme before me similarly seeks the conversion of the first floor into three separate one bedroom flats.

7. Criterion (1) of Policy DM06 of the Local Plan requires that developments provide an appropriate scale and range of parking to meet anticipated needs having regard to; accessibility and sustainability of the site, availability of public transport, provision of safe walking and cycling routes, and the specific scale and type of development.
8. Based on the evidence before me and observations made on my site visit, by reason of the accessibility of the site within the core of the village and due to the public transport links within the village that would be available to occupants of the appeal scheme, I would concur with the Inspector in the Recent Appeals that, given the wording of Policy DM06 of the Local Plan, there would be a need to provide off highway parking and that one space for each of the three flats is appropriate to meet the needs of the development.
9. Within the Recent Appeals, the Inspector considered the proposed provision of off highway parking at a public car park within the village, and which proposed the use of parking permits. The Inspector found that in the absence of any workable mechanism for ensuring that residents obtained such permits, the appeals were dismissed. The Appellant has put it to me that the concerns of the Inspector in the Recent Appeals have now been addressed by providing off highway parking at the appeal site.
10. Within the appeal submissions, the Appellant maintains that the plans submitted in support of the planning application showed that three parking spaces are to be provided on existing hardstanding at the front of the appeal building. In determining the planning application, the Council considers that the supporting information provided indicated that only two parking spaces had been included on the relevant plans. In this regard, I have considered the submissions and concur that the plans do not provide a clear indication that an area which appears to be of different dimensions, located abutting a wall which separates the site from St Mary's Road, was to be allocated as a parking space.
11. Nonetheless, I accept the details provided by the Appellant in the course of this appeal that the number of boxed off areas shown on the submitted location plan relate to parking spaces. The Appellant's appeal submissions confirm that three spaces are to be provided on site and, in this respect, I find that the appeal scheme does provide one parking space for each of the three proposed flats. Consequently, the appeal scheme would accord with the provisions of criterion (1) of Policy DM06 of the Local Plan with regards to the number of spaces to be provided for the scheme as a whole.
12. Amongst other matters in respect of the protection and enhancement of public rights of way, Policy DM05 of the Local Plan concerns highway safety. Notwithstanding the above compliance with the provisions of Policy DM06 of the Local Plan with regards to the adequacy of the numbers of parking spaces to be provided, the supporting text to Policy DM05 of the Local Plan explains that development must provide for adequate parking that actively aims to reduce the likelihood of inappropriate parking on the highway which could conflict with the aims of Policy DM05 of the Local Plan.

13. Specifically, criterion (1) of Policy DM05 of the Local Plan provides that all developments must ensure safe and well designed access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users including cyclists and pedestrians.
14. In respect of matters of highway safety, the Inspector in the Recent Appeals found that, in the absence of adequate off highway parking provision, development would have been likely to lead to on highway parking by future residents which, given the narrow nature of the local road network and the high degree of parking stress that is experienced within the village during holiday periods, would interfere with the free flow of traffic and thereby be detrimental to highway safety.
15. Whilst noting above that the appeal scheme is similar to that considered within the Recent Appeals with regards to the number of residential units, the present proposal is substantively different in that the required parking is to be provided on site.
16. In terms of the proposed layout, and in acceptance of the appeal scheme providing three dedicated parking spaces at the site for future residents, the appeal submissions provide confirmation that there would be sufficient room for resident's private vehicles to turn within the site, thereby allowing for those vehicles to exit the site in forward gear.
17. However, there is concern that the provision of parking spaces at the appeal site would result in the loss of space used to serve the existing commercial premises. I acknowledge the Appellant's submissions that such a loss of parking for the commercial premises is a commercial decision on their part and, in this regard, it could be said that some customers of the existing commercial enterprise could utilise, for example, the public car park which is located within the village. However, in my view it is unlikely that the position would be the same with regards to deliveries and other needs of the commercial enterprise, where the public car park would not be conveniently located, and that would be likely to result in on highway parking close to the site.
18. As noted by the Inspector in the Recent Appeals, whilst there is some on highway parking provision within the village, pressure for its use during summer would be intense. Given the above and the relatively narrow nature of the local road network, I find it likely that short term on highway parking would occur and that such parking would interfere with the free flow of traffic and cause danger to highway users including cyclists and pedestrians, in conflict with the aims and provisions of Policy DM05 of the Local Plan.
19. Further to the above, whilst I note that the Appellant maintains that safety would be improved by closing the access point for vehicles where Hobb's Hill, Jones's Hill and St Mary's Road meet, this would result in vehicles being funnelled into a point close to the proposed access and where there would be increased and significant potential for conflict between vehicles, and between vehicles and pedestrians. In this respect, blockages are likely to be caused when vehicles entering the site meet vehicles seeking to exit the site and at a point where customers would be likely to be exiting from the adjacent post office. I therefore find that the appeal scheme would not provide safe access and egress from the site.

20. In summary, I find that whilst the appeal scheme would accord with the provisions of Policy DM06 of the Local Plan in respect of the specific number of parking spaces, the proposal would conflict with Policy DM05 of the Local Plan with regards to highway safety. Consequently, the proposed development would conflict with the policies of the development plan when taken as a whole. Furthermore, the appeal proposal would be contrary to the National Planning Policy Framework (July 2021) which provides that development should be refused where there is an unacceptable impact on highway safety. In my view, the social and economic benefits arising from the proposed additional contribution towards local housing supply, would be significantly and demonstrably outweighed by the adverse impact of the proposal on highway safety.

### **Other Matters**

21. The evidence before me indicates that the appeal site is located within the zone of influence of the Braunton Burrows Special Area of Conservation (the SAC). However, given my overall conclusion on the main issue as above, it has not been necessary for me to consider this matter any further in this instance.

### **Conclusion**

22. For the reasons given above I conclude that the appeal should be dismissed.

*Mr A Spencer-Peet*

INSPECTOR



## Costs Decision

Site visit made on 21 December 2021

**by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)**

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

**Decision date: 18 January 2022**

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### **Costs application in relation to Appeal Ref: APP/X1118/W/21/3281827 1 Ty-Nant, The Stores, St Marys Road, Croyde EX33 1LF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Joel Briggs of Merchant Holdings for a full award of costs against North Devon District Council.
  - The appeal was against the refusal of planning permission for the conversion of first floor flat and office/store into 3 flats.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. Parties in planning appeals and other planning proceedings normally meet their own expenses.
3. The PPG includes examples of unreasonable behaviour, by planning authorities. Amongst other things, this can include, "vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis" and "persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable".
4. On the first of these issues and in relation to whether the Council provided only vague, generalised or inaccurate assertions, the reasons for the refusal set out in the decision notice are complete and precise, and further confirms the policies of the North Devon and Torridge Local Plan that it is maintained the proposal would conflict with. These reasons have been substantiated by the Council in its Officer Report.
5. As has been set out in the appeal decision, whilst the additional details and confirmation contained within the Appellant's submissions with regards to the specific numbers of parking spaces to be provided on site are acknowledged, the location plan provided in support of the planning application was not entirely clear regarding the number of vehicle parking spaces to be provided on site. The submitted location plan includes a number of boxed off areas within the forecourt area, two of which appear to be provided immediately to the front of the appeal building. However, there is a third boxed off area on the plan which appears to have different dimensions and by reason of the supporting

- information provided, in my view it is not clear whether that third space is intended for future residents' parking or whether the area would be retained for other commercial uses in respect of the forecourt area.
6. Accordingly, I do not consider that the Council failed to properly evaluate the application. Nonetheless, I have accepted the details provided by the Applicant within the appeal submission that three parking spaces would be provided at the site and have determined the appeal on that basis.
  7. For the reasons set out in the appeal decision I too have concerns regarding the impact of the now proposed parking on highway safety. I came to that decision having regard to all the evidence and representations submitted. Specifically, the reason for refusal is clear and, as outlined in the consultation from Devon County Council Development Management Highways, relates to the provision of parking on site which, it was maintained, would result in the loss of parking for existing commercial uses at the site thereby encouraging short term parking on highway to the detriment of all users of the road.
  8. In respect of whether the Council persisted in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable, the main parties have referred me to recent appeals concerning the site and which are described within the appeal decision.
  9. Whilst it will be seen from the appeal decision that the respective developments were similar, they differed in the arrangements for parking provision. Consistent with the Inspector in those recent appeals, I have found that one off highway parking space for each of the proposed flats would be appropriate. However, the recent appeals only considered the impact of providing off site parking, and consequently did not consider the potential impact on highway safety that could arise from loss of existing spaces to serve commercial enterprises at this location, in the event that parking for future residents was provided on site.
  10. It therefore does not necessarily follow that the Inspector in those recent appeals indicated that a proposal where on site parking was to be provided would be acceptable, but rather considered the proposed provision of off site parking which, for the reasons given in those appeals, was found to not provide sufficient spaces for future residents. Consequently, I do not consider that the Council have acted unreasonably with regards to vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis or in respect of persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
  11. For the reasons above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*A Spencer-Peet*

INSPECTOR