



Friday, 6 January 2012

DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of **Development Management Committee** will be held on

Monday, 16 January 2012

commencing at **2.00 pm**

The meeting will be held in the Ballroom, Oldway Mansion, Torquay Road,
Paignton, TQ3 2TE

Members of the Committee

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Brooksbank

Councillor Hill

Councillor Kingscote

Councillor Pentney

Our vision is working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:

Democratic Services, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: democratic.services@torbay.gov.uk



DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes**

To confirm as a correct record the Minutes of this Committee held on 12 December 2011.

(Pages 1 - 6)

3. **Declarations of Interests**

(a) To receive declarations of personal interests in respect of items on this agenda

For reference: Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question), If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of personal prejudicial interests in respect of items on this agenda

For reference: A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Democratic Services or Legal Services prior to the meeting.)

4. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

5. **P/2011/1080 - Palm Court Hotel, Torquay, Devon TQ2 5HD** (Pages 7 - 20)
Redevelopment of former Palm Court Hotel to provide a six storey building comprising: A3 [Restaurant] use, ground floor and part first floor, 14 self catering holiday flats with ancillary facilities part first and second floor, 14 private residential flats third, fourth, fifth and sixth floor. 17 car parking spaces for self catering accommodation and 15 for private flats. Modifications to carriageway to create shared space/pedestrian crossing facility. Works to adjacent public park to allow construction of building.
6. **P/2011/1201 - Seaford Hotel, 2 - 4 Stafford Road, Paignton, Devon, TQ4 6EU** (Pages 21 - 28)
Conversion of former hotel to 9 residential apartments with vehicle access
7. **P/2011/1238 - Apartment 8 Belvedere, 37 Marine Drive, Paignton, Devon, TQ3 2NS** (Pages 29 - 34)
Removal of condition 4 to application P/2000/1231 to allow apartment 8 to be used as residential
8. **P/2011/1257 - Flat 9 Basement, 64 Windsor Road, Torquay,,Devon, TQ1 1SZ** (Pages 35 - 40)
Conversion of basement to 1 number flat with 2 bedrooms - retrospective.
9. **Appeal Decisions** (Pages 41 - 42)
The Committee noted the outcome of recent appeal decisions.
10. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or e-mail democratic.services@torbay.gov.uk before 11 am on the day of the meeting.
11. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday 8 February 2012. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

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Minutes of the Development Management Committee

12 December 2011

-: Present :-

Councillor McPhail (Chairwoman)

Councillors Morey (Vice-Chair), Addis, Baldrey, Barnby, Brooksbank, Hill, Pentney and Hytche (In place of Kingscote)

(Also in attendance: Councillors Richards and Thomas (D))

426. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillor Hytche instead of Councillor Kingscote.

427. Minutes

The Minutes of the meeting of the Development Management Committee held on 14 November 2011 were confirmed as a correct record and signed by the Chairman.

428. Urgent Items

The Committee considered the item in Minute 429, which was inadvertently missed off the original agenda.

429. P/2011/0968 - Bench House, Blackball Lane, Brixham

The Committee considered an application in respect of a variation of condition 3 of permission P/2011/0039 (seeking accordance with the recommendation of the bat hibernation roost survey and memorandum date 6 January 2011).

Prior to the meeting written representations were circulated to members.

Resolved:

Approved with an informative that if they find evidence of bats on the site they must contact Natural England to arrange for the relevant licences.

430. P/2011/1118/R4 - Churston Grammar School, Greenway Road, Brixham

The Committee considered an application for the installation of solar panels on roof(s) of building(s).

Prior to the meeting written representations were circulated to members.

Resolved:

Subject to an addition to condition 1 'and implemented in accordance with that scheme', approved with the conditions and informatives set out in the submitted Report.

431. P/2011/0898/VC - Flat 3 Carlton Manor, 9 Roundham Road, Paignton

The Committee considered an application in respect of the removal of condition 1 to application P/2000/1186 to allow permanent residential use for flat 3 only.

Prior to the meeting written representations were circulated to members.

Resolved:

Approved subject to the completion of a S106 Agreement in respect of municipal waste and recycling, education, lifelong learning, green space and recreation within three months of the date of this Committee or the application be re-considered by members.

432. P/2011/1041/PA - San Remo Holiday Flats, 15 Marine Drive, Paignton

The Committee considered an application in respect of internal alterations to the first floor rear holiday flat to be combined into owners' accommodation.

Resolved:

Approved with the informative set out in the submitted Report.

433. P/2011/1056/MPA - 13-39 Langridge Road, Paignton

This application was withdrawn by the applicant.

434. P/2011/1053/VC - Julie Court, 5 Colin Road, Paignton

The Committee considered an application in respect of the removal of condition 2 on application P/1987/1109; condition 1 on application P/1996/1527 and condition 1 on application P/2002/1896 to allow the holiday flats and owners accommodation to be occupied without limitation, internal alterations and removal of exterior signage.

Prior to the meeting, Members of the Development Management Committee undertook a site visit.

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement in respect of waste management, sustainable transport, education, lifelong learning and green space within three months of the date of this Committee or the application be re-considered by members; and
- (ii) the imposition of the conditions and informative set out in the submitted report with condition 2 being amended to read within six months of the issuing of this decision, or prior to commencement, whichever is sooner, a program of work to; improve the exterior of the building, remove all signage and landscape the site, shall be submitted to and approved by the Local Planning Authority in writing and implemented in strict accordance with the approved programme of works.

435. P/2011/1197/VC - Flat 3 Sunhill Apartments, 19 Alta Vista Road, Paignton

The Committee considered an application in respect of a variation of condition 1 to application P/2004/0038 to allow residential and holiday use.

Resolved:

Approved subject to the completion of a Section 106 Agreement in respect of municipal waste and recycling, education, lifelong learning, green space and recreation.

436. P/2011/1192/VC - Unit 11, Sunhill Apartments, 19 Alta Vista Road, Paignton

The Committee considered an application in respect of a variation of condition 1 to application P/2004/0038 to allow residential and/or holiday use.

Resolved:

Approved.

437. P/2011/1202/VC - Apartment 2, Sunhill Apartments, 19 Alta Vista Road, Paignton

The Committee considered an application in respect of a variation of condition 1 to application P/2004/0038 to allow residential and holiday use.

Resolved:

Approved.

438. P/2011/0628/PA - Torbay Court, Chelston Road, Torquay

The Committee considered an application for the redesign of a previously

approved scheme to form one additional cottage in lieu of one of the flats (scheme now four cottages and six flats).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members.

Resolved:

Refused for the reason set out in the submitted Report.

439. P/2011/0856/MPA - Former General Accident Fire & Life Assurance Plc General Buildings, Greenway Road, St Marychurch, Torquay

The Committee considered an application in respect of a revised scheme for the redevelopment of the General Accident building and erection of seven retail units in Class A1, A2, A3, A4, and A5. Modifications to design comprising replacement of pitched roofs to pod unit and retail unit No 5, redesign of fenestration/shop fronts and entrance to anchor store. Erection of four, two storey residential units with forecourt parking. Improvements to public realm within and adjacent to the site and relocation of bus stop closer to proposed vehicular access (revised scheme).

Prior to the meeting Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Daniel Geary addressed the Committee against the application and Tom Roche addressed the Committee in support. In accordance with Standing Order B4.1 Councillor Thomas (D) addressed the Committee.

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement to secure developer contributions in line with the Supplementary Planning Document, to be signed within six months of the date of this Committee or the application be re-considered by members; and
- (ii) the imposition of conditions as itemised at the end of the submitted Report with the addition of further conditions in relation to a servicing plan, screening to Kingsbridge and replacement of timber fence on Greenway Lane: all conditions being delegated to the Executive Head of Spatial Planning.

440. P/2011/0896/PA - Site Formerly Known As 1-5 Athenaeum Place, Side Of 27 Braddons Street, Torquay

The Committee considered an application in respect of the formation of three two bedroom houses with pedestrian access.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Adrian Gillett addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement in respect of municipal waste and recycling, sustainable transportation, lifelong learning, green space and recreation within six months of the date of this Committee or the application be re-considered by members: and
- (ii) the imposition of the conditions set out in the submitted Report.

441. P/2011/0035/MPA - Former Royal Garage Site, 4-24 Torwood Street, Torquay

The Committee considered an application in respect of demolition works; formation of mixed use development to form hotel, A3 units, two external purpose units (D2 use for fitness centre and B1 use for office suite) and 14 apartments with vehicular and pedestrian access.

Prior to the meeting written representations were circulated to members.

The Senior Planning Officer explained that further to the meeting of the Development Management Committee held on 8 April 2011, the Section 106 Agreement had not been completed by the required date. The Senior Planning Officer further explained that the terms of the Section 106 Agreement were acceptable and sought members' approval for an extension of time for two months.

Resolved:

Approved subject to:

- (i) the completion of the Section 106 Agreement, on terms listed in the submitted Report, by 12 February 2012;and
- (ii) the imposition of the conditions and informative set out in the submitted Report.

442. P/2010/1141/R3 - Torre Abbey, The Kings Drive, Torquay

The Committee considered an application in respect of alterations, repairs and conversion works (Torre Abbey Phase 2).

Resolved:

Approved with the conditions and informative set out in the submitted Report.

443. P/2010/1142/LB - Torre Abbey, The Kings Drive, Torquay

The Committee considered an application in respect of alterations, repairs and conversion works (Torre Abbey Phase 2).

Resolved:

Approved with the conditions and informative set out in the submitted Report.

444. Appeal Decisions

The Committee noted the outcome of recent appeal decisions, as set out in the submitted Report.

Chairman

Application Number

P/2011/1080

Site Address

Palm Court Hotel
Torquay
Devon
TQ2 5HD

Case Officer

Mrs Ruth Robinson

Ward

Tormohun

Description

Redevelopment of former Palm Court Hotel to provide a six storey building comprising: A3 [Restaurant] use, ground floor and part first floor, 14 self catering holiday flats with ancillary facilities part first and second floor, 14 private residential flats third, fourth, fifth and sixth floor. 17 car parking spaces for self catering accommodation and 15 for private flats. Modifications to carriageway to create shared space/pedestrian crossing facility. Works to adjacent public park to allow construction of building.

Executive Summary/Key Outcomes

The proposed redevelopment presents the opportunity to resolve this important 'shop front' site on Torquay seafront, following the destruction of the building by fire. The scheme has been designed with advice from the Torbay Design Review Panel and in conjunction with Officers. The development will provide commercial ground floor uses, significant public realm improvements and the potential for use of a number of the proposed units for self catering holiday purposes.

Concerns about the size and prominence of the building have been expressed by English Heritage and third parties. However the extant approval is for a substantially larger building and this scheme represents an improvement in terms of design and relationship to context.

The Palm Court is a 'red' PHAA site and should be developed in a way that is not to the detriment of the holiday character of the area. In view of its former use it has to date been considered important to achieve a tourism related use on the site. Past and extant approvals for a hotel, even when enabled by a significant level of residential accommodation have failed to be implemented. The fact that a hotel development has not been achieved even in more favourable economic circumstances confirms that this may not be a feasible option to pursue in the circumstances of needing to speedily resolve the future of this site.

This scheme comprises, in addition to A3 uses, 14 large open market flats and the same number of significantly smaller holiday flats. The scale of the open market residential is such that the volume could easily accommodate 15 units and therefore the issue of affordable housing contributions is relevant. The applicants contend that the scale of residential use and a 'light touch' restriction

in relation to the holiday flats is essential if the project is to be viable. An Independent Viability Assessment confirms this 'package' as the most likely to deliver a holiday use on the site in the current market.

Holiday flats are difficult to maintain in the long term, lawful residential uses can be established through exercise of the 4 year rule and so regular monitoring is required. Once sold off as individual holiday homes, monitoring becomes more difficult and occupation more sporadic as there is less of a business case to keep them occupied. S106 community infrastructure and Affordable Housing contributions become difficult or impossible to achieve. This problem has recently become more acute given the recently adopted revised guidance on PHAAs, which has resulted in increased changes of use to residential.

A future for this site has to be identified quickly. Attempts to secure a hotel development have been unsuccessful and are even less likely to come forward in the current market. It makes sense to consider other options for achieving regeneration particularly given the difficulties of the current proposal.

Given the possibility of 'back door' residential use becoming established over time and the more limited economic benefit of holiday flats, particularly once sold off individually, it is worth considering approval of the scheme without a restriction on occupation. This would improve the viability of the scheme and the likelihood of implementation. The IVA has established that the full Affordable Housing contribution could be met along with the SPD Community infrastructure contributions. New Homes Bonus would also be achieved on all 28 units. This would represent a significant community benefit which would arguably outweigh the limited benefits of the holiday flat proposal. Even if approved without a holiday restriction it is likely that flats in this location would be attractive to investors to let out for holiday purposes due to the high rental levels that could be achieved.

This report therefore presents 2 options, Option A which is to approve the application with a restriction on occupation of the holiday flats and option B which is to approve without a restriction on occupation [option B would be subject to re advertisement, both options would be subject to more detailed information, resolution of flood risk, S106 agreement and relevant conditions].

Recommendation

Site Visit; - Approval of either

Option A: comprising the submitted scheme with a restriction on occupation of the holiday flats or:

Option B: comprising the scheme without a restriction on occupation [subject to re advertisement]

Both options are subject to S106 agreements to secure relevant contributions and matters detailed in the body of the report, the receipt of amended plans, additional detailed information in relation to the appearance of the building and public realm, resolution of flood risk and a commitment to commencement of the scheme. Conditions to be delegated to the Executive head of Spatial Planning to resolve.

Site Details

The former Palm Court Hotel sits at the base of Shedden Hill close to the junction of Shedden Hill Road and Torbay Road. It is now partially demolished following a fire in December 2010. The original Victorian terrace, Abbey Crescent, comprised 2 storey domestic dwellings. The major part of the terrace was later extended by the introduction of a third storey and converted into use as a hotel in the 1930s.

Part of the original terrace is excluded from this proposal and the two end terrace properties, which are close in character to their original form and appearance would remain.

Adjacent to these buildings is the Grade II Listed Tollhouse.

To the South is Torre Abbey and its grounds, which contain Grade I Listed buildings set within a Grade II Registered Park and Gardens, Abbey Gardens.

The site immediately abuts the Princess Gardens and Royal Terrace [Rock Walk] Gardens which are on the Register of Parks and Gardens, Grade II.

It occupies a sensitive and prominent location on the main road into the town and within the Belgravia Conservation Area. It is a pivotal position in terms of the public appreciation and enjoyment of the Conservation Area, Torre Abbey Sands and the coastal hinterland.

There is an extant permission for a 100 bed hotel with 8 penthouse flats on the site and in 2004 permission was granted for a 44 bed boutique hotel with 14 apartments. Neither of these schemes has been implemented.

Detailed Proposals

Redevelopment of former Palm Court Hotel to provide a six storey building comprising: A3 [Restaurant] use, ground floor and part first floor, 14 self catering holiday flats with ancillary facilities on part of the first and on the second floor, 14 private residential flats on the third, fourth and fifth floor. 17 car parking spaces serving the self catering accommodation and 15 for the private flats to be provided with vehicular access from Shedden Hill Road. Modifications to carriageway to create shared space/pedestrian crossing facility. Works to adjacent Public Park to allow construction of building.

Summary Of Consultation Responses

English Heritage: Their detailed comments indicate little support for the scheme considering it to have 'broadly the same net degree of harmful impact' as the previously approved scheme. This concern is largely due to the size of the building, particularly at the western end, and the prominence that this will create particularly in near and middle distance views. In conclusion, they advise that permission should only be granted if such harm is necessary to deliver substantial public benefits that may outweigh it and urge some mechanism for linking approval with letting of a contract for redevelopment of the site.

Environment Agency: The scheme adopts a lower finished floor level than the existing building or previous approvals on the site in order to create a level shared surface linking the forecourt of the building and the carriageway beyond. This increases the risk of flooding substantially and requires it to be assessed as being in flood risk zone 3. The EA have requested that the finished ground floor level within the building be increased to a minimum of 5.25m above OD, an increase of around 400mm. A revised FRA has been requested and discussions are ongoing which may have implications in terms of the design of the shared space. Conditions are recommended in the event of a satisfactory FRA being agreed in relation to land contamination.

Highways: Have no objection in principle to the proposals for shared pedestrian/vehicular space subject to detailed matters in relation to width of the 'pedestrian area' of the carriageway, the distance of the gateway feature from the puffin crossing, coach tracking being applied to the vehicular access from the seafront car parking area, the impact on visibility arising from the location of planters in option 2, adequate provision for cycle parking and cycle use of the carriageway. Works will need to be done via a S278 agreement. They require adequate visibility from the accesses onto Shedden Hill Road and a whole section of footway to be re-laid. A sustainable transport contribution is required to fund improvements to the National Cycle Route [NCN28] that passes the site. A framework Travel Plan to secure 50% trips by non car mode is to be applied via condition.

Drainage Service Manager: Has no objections to the scheme.

Structural Services: Require more information in relation to responsibility for highway retaining walls. These concerns could be dealt with by condition.

Arts Officer: Would like the scheme to include Torbay Connected Interpretative material within the public shared space.

The Design Review Panel considered a 'pre app' version of this scheme and considered that it had the potential to be truly excellent. They welcomed the reduction in mass from the previous proposal, emphasised that the need for quality must be assured on all elevations including the treatment of the

roofscape, felt that the western end of the building would be prominent and so required careful articulation, considered that the proposals for the public realm are exciting, but that its feasibility needed to be demonstrated as does the final quality in terms of materials and detail.

These comments have been placed in the Members Room.

Summary Of Representations

Two public exhibitions have been held in order to provide opportunity for public comment and consideration of the scheme. The results from the first of these were submitted with the application and indicated strong support for the scheme. Of 10 responses from the second public consultation exhibition, 9 were supportive and stressed how vital it was that this scheme progressed quickly and one raised detailed matters in relation to delivery of the public realm, the need to maintain the holiday flats as a single entity, the need to secure agreement to details and materials prior to permission being granted to ensure delivery of a quality scheme and strict control over ground floor uses to ensure compatibility with holiday character.

Torbay Town Centres Company and the Torbay Business forum have written in support of the scheme.

The Heritage Hotel, whilst supporting the scheme in principle, is concerned at the impact on views from the hotel bedroom windows which will impact on their viability. They request that the penthouse level be relocated centrally on the building from its current position on the western end.

2 further letters are supportive of the scheme. One letter relays concerns that a hotel should be delivered on this site rather than flats, one that its size may affect the views from flats on Warren Road.

2 further views express concern at the size and scale of the building with requests for a more thorough assessment of the context and the relationship of this proposal to its surroundings.

These comments have been sent to the Members Room.

Relevant Planning History

P/2009/0669:- 100 bed hotel, A3 uses 8 flats. Approved 5.07.11

P/2004/0046: - 44 bed hotel, health spa, casino, A3 uses and 14 residential apartments. Approved 14/4/2004.

P/2004/0047/Conservation Area - Demolition of hotel. Approved 22/3/2004.

P/2002/1385/OA - Construction of new hotel, apartments and car parking.

Refused 20/8/2002.

P/2001/0204/OA - Construction of 11 terraced properties. Refused 30/4/2001.

P/2000/1538/OA - 30 bed hotel and 18 flats in 4-7 storey block. Refused 31/1/2001.

Key Issues/Material Considerations

There is a long history to the development of this site.

Planning permission was granted in 2004 for the replacement of the existing hotel with a 4-5 storey building that provided for ground floor commercial uses, a 44 bed 'boutique hotel' and 14 penthouse flats which were demonstrated to be necessary to enable delivery of the scheme. This was not implemented and a revised scheme was approved in 2009 which delivered a 100 bed hotel, 8 flats and ground floor commercial uses but in a substantially bigger building which achieved 7 stories at its maximum height.

The owners of the site subsequently went into liquidation and the current applicants acquired an option on the site.

This latest scheme involves replicating the curve of the original terrace in terms of the footprint to be adopted. The building is essentially 5 stories in height but includes a sixth penthouse floor to the western end of the site and drops to 4 stories adjacent to the retained part of the terrace. It takes its architectural inspiration from the Art Deco period with its strong horizontal emphasis and linearity created by the distinctive balconies. Decorative coloured glass panels between the balconies will give some vertical emphasis to the overall building and provide a distinctive character particularly when illuminated at night.

The scheme provides A3 uses on the ground floor and on part of the first floor, securing commercial vibrancy and vitality and complimenting the seafront location. 14 holiday flats are proposed with ancillary facilities on the first and second floors and 14 private open market flats on the third fourth and fifth floors.

The open market flats, whilst the same in number, occupy a substantially greater floor area than the holiday flats. To the rear of the building and accessed from Shedden Hill Road are 2 levels of car parking with 17 spaces to serve the holiday flats and 15 the private flats.

Of significance, is the creation of a substantial area of 'shared' public realm between the building and the sea which will extend from a 'gateway point' at the footbridge to beyond the puffin crossing. The carriageway is to be narrowed to slow traffic movement and opportunities for pedestrian movement enhanced. Good quality surfacing materials such as granite and planting are to be extensively used to create an attractive and more user friendly space for

pedestrians and cyclists. It is intended that this will be a pre cursor for a similar approach to be rolled out along the remainder of Torbay Road as it abuts Princess Gardens.

The current access from the seafront car parking area is to be relocated in order to provide a more spacious and appropriate setting to the building. This will result in the loss of some parking meters.

A small area of public land currently included in the gardens to the western end of the Palm Court is included within the development site and is necessary to facilitate construction.

There are a number of key issues:

- 1 The size, scale and design of the building.
- 2 The balance of uses within the building in terms of the level of open market housing and the means of retaining the holiday accommodation.
- 3 The viability/deliverability of the scheme and s106 contributions.
- 4 The impact on adjacent hotel premises.
- 5 The quality of the public realm.
- 6 The inclusion of public land to enable delivery of the scheme.
- 7 Flood Risk

Size, Scale and Design of the Building

Concerns have been raised by English Heritage and by third parties about the prominence of the building and its failure to relate sympathetically to surrounding buildings or to its position within the local landscape. English Heritage have consistently taken issue with a building of this size in this location considering that it should be of a reduced scale that sits more comfortably with the rising backdrop of Waldon Hill. However, there is an extant permission for a taller and more bulky building on this site and whilst its acceptance was influenced by the prospect of achieving a large 100 bed hotel it still remains a material consideration in determination of this application.

In response to English Heritages concern about the prominence of the western end of the building, which is where the building attains the greatest height, the penthouse level has been moved slightly eastwards so reducing this impact.

In terms of relationship to the retained part of the terrace and the toll house, this is much improved from the extant scheme as it adopts a reduced height and depth as it does not extend so far into the cliff face. Crosby Lodge, a Victorian villa which is perched on the hillside above Palm Court and is a key building in the Belgravia Conservation area is also better served by this proposal than the extant scheme as it will be more visible in views approaching from the south.

The impact of the penthouse in particular on the views from the Heritage Hotel behind are an important consideration, however, the scheme does improve the relationship over that which would have existed were the 2008 scheme implemented.

In terms of detailed design, this is generally thought to be an acceptable approach but much will depend on the quality of detailing and use of good quality materials. This was a point raised specifically by the Design Review Panel and is the subject of ongoing discussions.

Balance of uses within the building

The site is included in the Belgravia PHAA and policy TU6 of the Local plan applies. This identifies prime tourism sites and resists development that would be to the detriment of that character and function. This site was identified as within the 'red' core area in the recent appraisal of the status PHAAs and their boundaries which confirms it is of the highest importance for tourism development. In order to conform with policy, in view of its previous use, the scheme should be mainly tourism related. However in the previous 2 approvals on the site the main hotel use has been 'pump primed' by allowing an element of residential use in order to ensure viability. It is of note that even in more buoyant economic conditions and with significant enabling residential development, the approved schemes have failed to be delivered.

The ground and part first floor A3 uses included in this scheme are appropriate in terms of reinforcing a holiday character and are welcomed.

In terms of the upper floors, this scheme delivers 14 holiday flats and 14 private open market flats. Whilst arranged as 14 individual dwellings and thus avoiding the 'affordable housing trigger' 11 of the open market units are in excess of 120m² which is the size of a large 4 bed dwelling, 7 are over 150m² and 2 are nearly 200m². The floor space of the open market flats is greater than that of the holiday flats by around 500m², which is the equivalent of 5 3 bed family houses.

This 'balance' raises concerns about the level of private residential accommodation and whether this could be regarded as PHAA compliant and whether, given its scale it should contribute to affordable housing. The volume of open market housing is such that 15 units could easily be accommodated and common sense suggests that it should trigger an affordable housing contribution.

However, PGG3 'Housing' which did explain that the manipulation of dwelling size to avoid AH contributions was against policy has been superseded by the revised PPS3, which is silent on the matter.

The applicants, in discussion about control of the holiday flats, indicated that they would run it as a business initially but would need to sell them off individually after a 3 year period and could only accept a 'light touch' restriction limiting

occupation to non primary residence or similar rather than maintaining the whole as a business operation in perpetuity.

From a planning perspective, retaining the holiday flats as a single business unit is far preferable; there is a commercial imperative to keep them occupied and it is easier to monitor. Once sold off individually, there tends to be more sporadic occupation and regular monitoring is necessary to ensure that a lawful residential use is not established via exercise of the 4 year rule.

The difficulties of retaining the holiday flats in the long term raises concerns that this could become a 'back door' to full residential accommodation without having to meet legitimate affordable housing and S106 contributions.

In terms of S106 contributions, the applicants offered £50,000 whereas the calculations based on the SPD indicated a S106 contribution of £132,609. The reduction, it is claimed is due to the high cost of creating the setting to the building.

The applicants were asked to submit sufficient financial information to enable an Independent Viability Assessment to be carried out to demonstrate that the scale of open market housing, the need for minimal restriction of the occupation of the holiday accommodation and the discount on the S106 contributions was indeed essential to the viability of the project.

The IVA was extended to look at the viability of this scheme without a restriction on occupation in relation to the 14 holiday flats. The contribution to the local economy of holiday flats is questionable, once they are sold off as individual holiday homes and there are ongoing problems of monitoring and enforcement.

If lawful uses become established then S106 contributions will be lost. It will be particularly difficult to claw back any affordable housing contributions in relation to the 14 open market units currently included in the scheme in the event of a further change of a holiday unit to a residential use.

Viability of the scheme and s106 contributions

The scheme is a joint venture with a large construction company who will fund the land acquisition and construction costs under the terms of a negotiated price and building contract. This arrangement does reduce the level of risk for the developer.

The costings supplied have been verified by a quantity surveyor and are priced at the upper end of the range for a construction of this type. However this is thought to be appropriate given the need for a prestigious landmark building.

The IVA assessment indicates that the overall balance of uses is not unreasonable and is required to produce a viable scheme. Increasing the

restriction on the holiday accommodation does reduce its value and the more restrictive approach, such as fractional ownership/timeshare would render the scheme unviable. However, the IVA has concluded that the value of the holiday accommodation as 'light touch' had been understated and that higher rents could be achieved than indicated. This does increase the profitability of the scheme. The report concludes that there is sufficient profit margin therefore for the full SPD contribution to be met.

In terms of the potential uplift arising from an unrestricted occupation of the building, the report concludes that the full off site affordable housing contribution of £900,000 and S106 contributions amounting to £187,124 could be met whilst leaving the applicants with a similar profit margin to the submitted scheme. This option would also deliver New Homes Bonus in respect of all 28 units.

The applicants have argued that the cost of the new public realm was such that the S106 contributions should be reduced. However, the public realm is beneficial to the quality and value of the scheme itself as well as to the wider public, so while it might be appropriate for a proportion of the sustainable transport contribution to be put towards the cost of this, the balance should be put towards meeting other development related transport needs.

Impact on adjacent hotel premises

The Heritage Hotel sits to the rear of Palm Court on the far side of Shedden Hill Road. It currently enjoys views from its terrace and first floor bedrooms across to the sea. The 2004 approval would have been barely discernible from this property. The 2009 approval, if implemented, would have substantially blocked views which are important to the commercial success of the hotel. The increase in height of the building, whilst reduced from the 2009 scheme, will still impact on views. The owners of the Heritage Hotel have therefore requested that the penthouse level be moved to a more central position to alleviate this impact. However, at the time of writing it is not fully understood how far this would need to move to make any appreciable difference and what impact this would have on the design approach or importantly on Crosby Lodge. The outlook from the new extension to the Premier Inn would also be reduced although they have not raised it as a concern. It is worth noting that the previous approval was deemed acceptable in terms of its impact because it delivered a major hotel and the benefit to the economy was thought a priority. In the event of a hotel not coming forward there is less justification for this impact, particularly if it affects the commercial viability of existing hotels.

Quality of the public realm

The setting to the building is of vital importance. It offsets the scale of the building and helps deliver the opportunity for café culture to thrive. It offers a far more attractive pedestrian experience and enhances movement from this key site across to the beach. The design will also form a pre cursor for similar approach along the remainder of Torbay Road as it abuts Princess Gardens and

for this reason it is important that the quality of materials and approach is defined prior to issue of an approval. The use of granite and other naturally occurring materials forms the basis of the design and it is proposed that the colours selected closely mirrors the red sand and grey limestone which characterise the local coastal landscape. Planting takes the form of palm trees which require careful selection and planting regimes. The scheme also has to calm traffic but not impede it and talks are ongoing on the detail. The issues around flood risk may require some redesign to achieve higher internal ground floor levels which may require some steps/ramps to be introduced to what is currently a level area.

Inclusion of public land to enable construction of scheme

The construction of the building requires the loss of a small strip of land currently included in the public gardens adjacent to the existing building. It is understood that this is to be disposed of for a nominal sum. It is important that the interface of the building with the remaining gardens is properly treated and landscaping reinstated. A condition should be imposed requiring this to be carried out prior to occupation. The applicants have been advised of the need to reinstate the stone wall to the rear of the site which forms a boundary to the pedestrian approach to Rock Walk Gardens.

Flood risk

The proposed ground floor levels are lower than either the existing building or previous approvals, which brings the site into flood risk zone 3 which is the designation of Torbay Road. The EA have requested that the floor levels be increased to a minimum of 5.25 OD, an increase of about 400mm. This does create design difficulties in terms of the public realm as it had been hoped that an entirely level area from the base of the building to the footway adjacent to the beach could be created. It will now need to be DDA compliant which will necessitate ramps and steps. The applicants have said that they can achieve a finished ground floor level of 5.05 which is the same as shown on the extant scheme and to which the EA did not object. Increasing it to 5.25 presents difficulties in terms of ramped access to the building and would make it difficult to achieve access to the public gardens from the first floor A3 use where a spill out eating area could be created. Talks are ongoing on this and progress will be reported verbally.

Economy -

The cost of construction is around £12m, the agents estimate that up to 100 part and full time jobs could be created, during the construction period it is estimated that there could be up to 250 jobs directly and indirectly associated with the building of the project.

Climate change -

A range of measures are to be introduced to reduce energy consumption including a shared low emission boiler system, Air source heat pumps for penthouse level, Mechanical Heat Recovery System to all units, possibility of roof

mounted PV cells, low energy lighting to all areas, electric charging point, secure cycle storage, restricted flow showers, dual flush WCs south facing windows protected from solar gain by balconies.

Conclusions

In terms of design, whilst the concerns about its size and prominence are understood, it is the case that the extant consent, which is for a bigger building is a material consideration. It is considered that the information supplied so far demonstrates an appropriate design response and subject to detail, is capable of producing an attractive and distinctive landmark building. As this scheme is to be constructed through a fixed contract it is important that the quality is established in advance of a decision being issued rather than being left to later resolution.

Without doubt, from a policy point of view, a hotel use on this site would be the preferred option. This would make a positive contribution to the local tourist economy and would ensure year round commercial vitality. However, despite past and extant approvals there has been no market interest in delivery of a hotel development even when 'enabled' by a significant level of residential accommodation. The prospect of achieving hotel development on the site in the current climate is remote and this is not a site where it is appropriate to wait and see if the market improves.

For this reason, it has been necessary to consider alternative ways of delivering a holiday related use. 14 Holiday Flats, with a 'light touch' restriction have been proposed along with a more substantial area devoted to open market housing. The viability study concurs with the applicant's stance that a more robust restriction would impact on viability. Retaining these flats in the long term for holiday use is problematic; without extensive monitoring lawful residential uses can be established through the 4 year rule thus avoiding S106 contributions to meet the impact on local services arising from that occupation. Achieving any claw back in terms of AH contributions on this site would be difficult given the sums involved. Given the real possibility of 'back door' residential evolving over time it is worth considering the option of an unrestricted approval. It is also the case that 'unrestricted' flats are widely let out for holiday purposes as there are, in the right locations, high rental levels to be achieved.

An occupation restriction on a small part of the building delivers little tangible long term benefit. An unrestricted residential use would increase viability and ensure a greater chance of implementation. It would yield a substantial S106 contribution towards affordable housing and local community infrastructure and deliver new homes bonus on 28 dwellings. Furthermore, due to the location, the design and the espoused quality of the units, there is a distinct likelihood that these would be high value and high quality and could therefore contribute to the holiday character of the area even if their use is unrestricted.

Obviously the matter of precedent is important, however, the situation in respect

of this site is unique. Many years have been spent in trying to secure a hotel on the site without success. It is now derelict and in urgent need of redevelopment. Furthermore, this is a very prominent site within the shop window of Torquay's seafront and for these reasons it may be necessary to identify a solution that delivers regeneration even if it means stepping outside established policy.

In terms of the impact on the adjacent hotels and their commercial viability, whilst there was some justification for this in the event of a delivery of a major hotel there is less with the current scheme. It is recommended that the applicants consider some modification or reduction to the penthouse level to ameliorate impact. This would be more feasible if a higher value scheme were achieved.

There are two options available:

OPTION A. To approve the application with a minimal occupation restriction on the 14 holiday flats, this would deliver a business operation of the holiday flats for a minimum period of 3 years. Occupation would need to be closely monitored to ensure that lawful residential uses did not become established. The applicants would need to meet these costs and they should be included in the S106. The S106 would also need to be drafted to ensure that any subsequent changes of use from holiday use to residential delivered the relevant community infrastructure contributions and a contribution to AH equivalent to the uplift in the value arising from the change of use. A mechanism for doing this has been discussed and tentatively agreed with the applicant. The S106 should also secure the full SPD community infrastructure contributions of £ 132,609 subject to clarification about the proportion of the sustainable transport contribution being allocated towards the public realm.

Or

OPTION B. To approve the application without any such restriction subject to re-advertisement to clarify the residential status of the application. The S106 should secure an off site contribution to affordable housing equivalent to the costs of 30% provision on site [around £900,000] and the full SPD community infrastructure contribution of £187,124.

Which ever option is taken, it is recommended that a site visit be carried out to look at the impact from the Heritage Hotel and consider the concerns raised by English Heritage. Options should then be considered for mitigation if appropriate. Design responses to the flood risk issues will also need to be agreed. Finalised details of the external appearance of the building, the public realm, materials to be used and landscape details to include the works to the public gardens should be submitted prior to issue of the decision.

It is recommended that if option B is selected, the application be re advertised for

a period of 21 days and any adverse comments be reported back to Committee.

Recommendation

Site Visit - Approval: for option A or B [subject to re-advertisement] and subject to S106 agreements, revised plans and submission of details as itemised above and subject to conditions which should be delegated to the Executive Head of Spatial Planning to resolve.

Relevant Policies

Agenda Item 6

Application Number

P/2011/1201

Site Address

Seaford Hotel
2 - 4 Stafford Road
Paignton
Devon
TQ4 6EU

Case Officer

Mr John Burton

Ward

Roundham With Hyde

Description

Conversion of former hotel to 9 residential apartments with vehicle access

Executive Summary/Key Outcomes

The proposal is to bring back into economic use a building that has sat un-used for some years now. The building has become run down and suffers from several unsympathetic extensions and alterations. The building has also been damaged by water ingress. The proposal seeks to improve the appearance of the property whilst providing residential accommodation. This would clearly benefit the visual amenities of the area and would be beneficial to the amenities of neighbouring properties. However, the application does propose the retention of some of the existing large box dormers.

The use proposed involves residential use of a property that was previously used as a hotel and which sits within a P.H.A.A. This means that the proposal would have to be judged against policy TU6 and the Revised Guidance on PHAA's. The revised guidance identifies the site as being one where residential use may be considered as an appropriate alternative to holiday accommodation.

The site lies within a residential street and is the only holiday use remaining. The street is off of the main Sands Road and not within the main promenade of hotel and holiday uses. Given previous decisions made in respect of the loss of holiday accommodation on appeal, it is clear that the Revised Guidance on PHAA's should be given due weight, and when added to the visual improvements proposed, the location of the hotel and the negligible impact of a change of use on the limited holiday character of this particular locality, this indicates that the proposal can be recommended for approval.

However, the property does lie within a high flood risk zone, and the Council will need to be certain that the proposal is acceptable in this regard. The further views of the Service Manager (Drainage and Structures) has been sought and will be reported to Members.

Recommendation

Committee site visit; subject to the views of the Environment Agency on potential flood risk and the Service Manager (Drainage and Structures) regarding the submitted Flood Risk Assessment and subject to the signing of a s106 legal agreement within 6 months of the date of this committee in terms acceptable to the Executive Head of Spatial Planning, conditional approval (conditions listed at the end of this report).

Site Details

Former hotel property, not used for a number of years, at the end of Stafford Road, immediately adjacent to Queens Park recreation ground.

Detailed Proposals

Permission is sought to convert the hotel into 7 residential apartments and alter the existing/previous owners' accommodation to provide 2 extra units. This means that 9 residential units are proposed in total. 9 off-street car parking spaces are shown to serve the units. The external elevations of the building are shown as being altered so that some of the unsympathetic alterations and extensions can be removed.

Summary Of Consultation Responses

Drainage and Structures: Requires a Flood Risk Assessment before planning permission can be granted. (This has now been submitted, but yet too be checked and verified).

South West Water: No objections

Highways Authority: Observations awaited

Environment Agency: Observations awaited.

Arboricultural officer: No objections in terms of the impact upon Queens Park.

Summary Of Representations

One letter of representation has been received. Whilst it supports the general principle of renovating the building, it seeks assurances that there will be no overlooking. This is reproduced at Page P.201.

Relevant Planning History

Various applications for small scale extensions to the hotel in the 'eighties and 'nineties, but the only application more recently has been one which sought the demolition of the site and its replacement with a block of 10 residential units. This was dealt with under P/2011/0010. That application was however withdrawn, primarily because it was proving difficult to agree the design.

Relevant planning policy

H3 Residential accommodation in town centres.

TU6.11 Paignton seafront (South), Principle Holiday Accommodation Area.

CF6 Community Infrastructure Contributions

CF7 Education contributions.

EP6 Derelict and under-used land
EP11 Flood control
BES Built environment strategy
BE1 Design of new development
T25 Car parking and new development

Key Issues/Material Considerations

Principle and Planning Policy - loss of holiday accommodation

The property was a medium sized hotel situated within a Principle Holiday Accommodation Area, as defined by policy TU6.11 of the Saved Adopted Torbay Local Plan. As originally approved by the Council, the purpose of this policy was to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually resulted in refusal to grant planning permissions to change uses from holiday accommodation to permanent residential occupation.

Recent changes in holiday trends have led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan and as such does not carry the same weight, it is capable of constituting a material consideration.

Legal advice has indicated that Policy TU6 of the Saved Torbay Local Plan and TO1 of the Saved Devon Structure Plan remain the relevant development plan policies. Section 38 of the Planning and Compulsory Purchase Act 2004 indicates that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore the tests in Policy TU6 (a) - (d) should be a starting point when determining applications for proposals affecting PHAAs.

Policy TU6 states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character

of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and

d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The applicant has submitted supporting evidence that indicates that all 4 of the above criteria can be met. This site has not been in use as a hotel for some time now, and due to water ingress, has fallen into some disrepair. It is accept that it would not make economic sense to try and refurbish the existing building and continue with the holiday use. The Council should not look favourably upon sites where the owner has deliberately allowed the building to become run-down and damaged through lack of repair and general neglect. This will rarely be a justifiable reason by itself for allowing a redevelopment. However, it is clear that the Seaford Hotel is/was very limited in terms of the facilities it could offer, with small letting bedrooms and few ancillary facilities that would make it attractive in an increasingly competitive market. Despite its good central location, close to transport links, town centre facilities and the beaches, the site is located away from the main PHAA areas in the vicinity. There appears to be little room for improvement of the hotel in order to make it a viable concern. On this basis, residential use would appear to be a more appropriate alternative.

Members have now considered many similar applications throughout 2011. Following these considerations, the Council has looked again at its policy in relation to PHAA's. A paper was presented to and agreed by the 'Place Policy Development Group' of the Council and subsequently presented to Full Council on July 13th 2011. The recommendation was that the revised guidance on the interpretation of policy TU6 (March 2010) be withdrawn pending review as part of the emerging Local Development Framework core strategy and that the Council should rely upon policy TU6 of the Saved Adopted Local Plan for the determination of applications in PHAA's. However, this motion was defeated, confirming that the Revised Guidance was still in force.

Since that time, determination has been made of 3 appeals at the Belvedere Holiday Flats, all of which were refused at the April 2011 meeting. The Inspector allowed the appeals against the Council's decision to refuse a variation to the restrictive condition in order to allow residential use. In reaching his decision the Inspector concluded that the Revised Guidance on PHAA's should be given considerable weight in determining the appeals.

Design

This proposal allows the original Victorian building to be saved and improvements to its current appearance are proposed. It is now in a state of disrepair. The site is very visible from within and across Queens Park and as such any proposal involving the improvement of this building would provide a better and more suitable backdrop to the open space of the Park and the public

realm in general. The main external alterations proposed include

- The provision of a paved patio area on the western side of the property in lieu of the existing conservatory;
- Alterations to the fenestration pattern facing Queens park on the northern elevation (some removed some added);
- New balconies on the northern elevation facing Queens Park.

It is considered that the changes outlined above would significantly improve the appearance of the building, particularly the loss of the conservatory.

Officers have considered further improvements such as the loss of the unfortunate box dormer on the western elevation. The applicant has responded to state that he does not wish to remove the dormer on the eastern elevation because this would be challenging and expensive (see his letter reproduced at page P.201. However, it is the dormer on the western elevation that causes greater concern. The applicant will be asked about this again and his response reported to Members at their meeting. Officers consider it would be beneficial if the dormer could be removed. However, it is important to realise that this dormer is existing, not proposed and as such it may be difficult to argue that its imposition affects the appearance of the proposed scheme such that refusal on this ground would be justifiable.

Flood Risk

The property is situated within flood risk zone 3a, albeit right at the very edge of this zone. The risk here is primarily from flooding by the sea. Whilst this would not preclude conversions, the Council will need to be certain that the proposal would not be likely to lead to life being endangered. The applicant has submitted a Flood Risk Assessment and this is currently being evaluated by the Council's Service Manager (Drainage and Structures). His advice on the matter will be reported to Members. The basement and ground floor levels would be particularly vulnerable, but there may be some allowance against the fact that the hotel had accommodation at these levels. The views of the Environment Agency have also been sought and these will be reported to inform Members' decision making process.

Impact on neighbouring properties.

The main impact would arise from overlooking and potential disturbance. However, it is important to realise that this was a 22 bed hotel with owners' accommodation. It is proposed to create 9 residential units. Although the nature of residential accommodation would be likely to lead to more concentrated use, the reduction in units from 22+ to 9 is highly likely to result in a reduction of human activity. No new windows are proposed on elevations that would lead to increased overlooking as all the new windows face Queens Park.

Parking and access.

This is considered to be an area where the council should be prepared to relax its normal standards as given in the Saved Adopted Local Plan. This is because it has a central location close to the town centre, bus and rail routes and general facilities required for residential living. Therefore, parking at a ratio of 1:1 is considered appropriate. The use of the property as a 22+ bedroom hotel should have provided a minimum of 22 off street parking spaces to standard, and in reality there are about 7 spaces at the rear available for use.

As such the previous authorised use had a large shortfall on provision to standard. This, taken into account along with the site's location, means that the proposal is considered to be acceptable with a level of parking at a ration of 1 space per unit. Nevertheless, the observations of the Highway Authority, are still awaited and will be reported to Members.

Planning Obligation under s106 of the Act.

Planning contributions are sought in line with policy CF6 of the Saved Adopted Torbay Local Plan and Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). This was originally adopted in May 2008, but has now been examined again and re-interpreted in the light of the current severe economic problems faced by this country, in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The 'Planning contributions and affordable housing supplementary document, update 3: Economic recovery measures', was adopted by the Council in April 2011. It is therefore appropriate to evaluate the amount of the required 'developer contribution' in line with this adopted revision to the policy. The amount of contribution due would be based upon the floor space to be created in each unit. Contributions would be due for the following items. Waste management, sustainable transportation, education (primary only), lifelong learning and greenspace/recreation.

Category 1 (45 – 54 Sq. M.)

Municipal waste and recycling	£ 50.00
Sustainable transportation	£1260.00
Education (primary only)	£ 0.00
Lifelong learning	£ 160.00
Green space and recreation	£ 550.00

TOTAL £2020 x 2 units = £4040.00

Category 2 (55 – 74 Sq. M.)

Municipal waste and recycling	£ 50.00
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Sustainable transportation	£1720.00
Education (primary only)	£ 410.00
Lifelong learning	£ 220.00
Green space and recreation	£1120.00

TOTAL £3520 x 3 units = £10560.00

Category 3 (75 – 94 Sq. M.)

Municipal waste and recycling	£ 50.00
Sustainable transportation	£2350.00
Education (primary only)	£ 830.00
Lifelong learning	£ 300.00
Green space and recreation	£2050.00

TOTAL £5580 x 3 units = £16740.00

This gives a total contribution due of (£4040 + £10560 + £16740) = **£31,340.**

Conclusions

The proposal makes good use of an urban brownfield site, and would give life to a potentially good looking Victorian building. Whilst it is not Listed and is not situated within a designated Conservation Area, improvements and refurbishment of this property should be encouraged. This application does this to some extent. Although the proposed use would result in the loss of a hotel situated within a defined PHAA, the Revised Guidance on PHAA's would allow such a change of use. The importance of the revised guidance has been clarified on recent planning appeal decisions. The parking situation would be improved over that which currently exists (or which existed when the property was last used). All these factors indicate that the proposal should be encouraged and the recommendation is therefore one of approval.

Condition(s)/Reason(s)

01. The development hereby approved shall not be commenced until details of the colour type and texture of all of the new external materials, including hard-surfaced areas, to be used in the conversion of the property have been submitted to and approved by the Local Planning Authority.

Reason To allow the Local Planning Authority to assess this element of the proposal and ensure that the works of conversion do not prejudice the appearance and character of the existing building, and the area in general in accordance with policies H4, BES and BE7 of the Saved Adopted Torbay Local Plan.

02. The property shall be converted entirely in accordance with the conclusions and recommendations contained in paragraph 5.0 of the Flood Risk Assessment dated November 8th 2010.

Reason The property lies within flood risk zone 3a and there is therefore a risk of flooding. The conversion will therefore need to be carried out as recommended in order to meet the requirements of Planning Policy Statement no. 25 (Development and Flood Risk), and to ensure accordance with policies EPS and EP11 of the Saved Adopted Torbay Local Plan.

03. The development hereby approved shall not be used or occupied until all of the car parking areas and access thereto shown on the approved plans have been provided and made available for use, or to a stage previously agreed in writing with the Local Planning Authority. The car parking areas shall be kept permanently available for parking purposes to serve the development at all times thereafter.

Reason To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with policy T25 and T26 of the Saved Adopted Torbay Local Plan, in the interests of highway safety, and in order to protect the residential amenities of the neighbourhood.

Relevant Policies

Application Number

P/2011/1238

Site Address

Apartment 8 Belvedere
37 Marine Drive
Paignton
Devon
TQ3 2NS

Case Officer

Mr John Burton

Ward

Preston

Description

Removal of condition 4 to application P/2000/1231 to allow apartment 8 to be used as residential

Executive Summary/Key Outcomes

The Belvedere is situated within an identified Principle Holiday Accommodation Area and as such saved adopted Local Plan Policy TU6 is a relevant consideration. This would tend to indicate that permission should not be granted. However, the Revised Guidance on PHAA's identifies the site as being within a green area where residential use of holiday accommodation may be permitted. This is a consideration that holds significant weight when determining the application. The Inspector on recent similar appeals at this very property has confirmed the materiality of this revised guidance. There are no changes in circumstances that would indicate that a different decision should be reached from that made by the Inspector. There is thus significant weight in favour of approving this application.

Recommendation

The condition placed upon the original grant of approval under LPA reference P/2000/1231 be varied to allow residential use of apartment 8.

Site Details

Purpose built block of holiday flats on the site of the former Belvedere Hotel, located on the western side of Marine Drive, opposite the Preston seafront and greens.

Detailed Proposals

The applicant has applied for a variation to the condition which restricts use of his flat (no. 8) for holiday purposes only. Condition 4 of permission 2000/1231 states that "The accommodation hereby approved shall be used for the purpose of holiday accommodation only and not as a UK main residence without the express permission of the Local Planning Authority". The removal of this condition would allow permanent residential occupancy of the flat.

It is understood that the apartments within the Belvedere complex are in separate ownership. Some, possibly all, of the flats have been sold off individually, meaning that each unit of occupation (flat) has effectively become a separate planning unit, irrespective of the fact that they were all built pursuant to the same consent. No constraints were imposed by the LPA in 2001 to prevent the flats being sold individually.

Summary Of Consultation Responses

None undertaken.

Summary Of Representations

None received.

Relevant Policies

Saved Adopted Torbay Local Plan, relevant policies

TU6 PHAA
CF6 Community Infrastructure Contributions
CF7 Education contributions
T25 Parking standards

Also relevant are:-

Revised guidance on PHAA's adopted by the Council in March 2010 (Report no. 73/2010), and

LDD6 (Planning contributions and affordable housing) adopted April 2008, and the subsequent update (mitigation and clarification) paper of March 2011.

Relevant Planning History

P/2000/1231/OA Erection Of 20 Holiday Apartments With Associated Facilities (In Outline), approved 25 July 2001. Condition 4 regarding the units being used for holiday purposes only was subsequently challenged on appeal, but the appeal was dismissed, with the Inspector confirming the primacy of policy TU6.

P/2002/1352/RM Reserved matters approved 7 February 2003

P/2010/0566 Removal of Condition 4 of application P/2000/1231/OA to allow flat 7 to be used as a residential flat. Approved 12th July 2010.

P/2011/0214 Change of use from holiday let not being used as main dwelling to residential use at apartment 8. Application refused 26th Sept 2011.

Several identical applications within the Belvedere apartment block seeking the

removal of a condition restricting occupancy to holiday use only were all refused by Members of the Development Management Committee at their meeting in April of this year. Two reasons were given, as follows -

1 - "The proposal to remove condition 4 of planning application P/2000/1231 and allow residential use of the property, is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Belvedere complex at 37 Marine Drive, Preston, is a purpose built block of holiday flats within the Preston Seafront PHAA as defined by policy TU6.9 and the primacy of this policy in respect of the Belvedere Holiday complex has already been tested and successfully upheld on appeal by Inspector's decision dated 9th May 2002 (reference APP/X1165/A/01/1080318). The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) - (d) set out in policy TU6, and there are not any other change in circumstance that would justify a breach of the adopted policy.

2 - The proposal to remove condition 4 of planning application P/2000/1231 and allow residential use of the property, is contrary to policy TU25 of the Saved Adopted Torbay Local Plan which clearly stipulates that residential flats should have 1 off street parking space per unit plus 1 space per 2 units for visitors (1.5 spaces per flat). The Belvedere Holiday Complex at 37 Marine Drive, Preston is a purpose built block of holiday flats which is provided with 1 space per unit only in accordance with the adopted standards for holiday flats. To allow residential use of the flats without any extra provision of off-street parking would therefore be contrary to the adopted policy and be likely to lead to parking on the public highway in an area which only has restricted on-street parking and can get very busy and congested particularly during the summer season. This would be likely to add to congestion and problems with the free flow of traffic, and the accumulative impact of many or all of the flats within the Belvedere Complex adding to this would have an unacceptable impact on the local highway network.

Key Issues/Material Considerations

The property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.9 of the Saved Adopted Torbay Local Plan. As originally approved by the Council, the purpose of this policy was to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. In fact this occurred in relation to the site of the Belvedere apartments when condition 4 of application P/2000/1231/OA was originally challenged on appeal and the inspector, in 2001, dismissed that appeal, confirming the primacy of policy TU6.

Recent changes in holiday trends have led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material consideration although it would not carry as much weight as the Saved Adopted Torbay Local Plan.

There is a potential lack of clarity of the revised Guidance's status, with regard to how much weight it should be accorded when deciding planning applications, given that it is only informal policy delivered outside of the Development Plan, with limited consultation in its preparation. Legal advice has indicated that Policy TU6 of the Saved Torbay Local Plan and TO1 of the Saved Devon Structure Plan remain the relevant development plan policies.

Section 38 of the Planning and Compulsory Purchase Act 2004 indicates that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore the tests in Policy TU6 (a) - (d) should be a starting point when determining applications for proposals affecting PHAAs. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

Of the above 4 considerations, it is considered that c and d applies by virtue of the revised guidance, but a and b do not apply in the case of the Belvedere complex.

Members considered 7 similar applications at their meeting in April 2011, and each one of these was refused permission. Following these considerations, the Council has looked again at its policy in relation to PHAA's. A paper was presented to and agreed by the 'Place Policy Development Group' of the Council and subsequently presented to Full Council on July 13th. The recommendation

was that the revised guidance on the interpretation of policy TU6 (March 2010) be withdrawn pending review as part of the emerging Local Development Framework core strategy and that the Council should rely upon policy TU6 of the Saved Adopted Local Plan for the determination of applications in PHAA's. However, this motion was defeated, confirming that the Revised Guidance was still in force.

Since that time, determination has been made of 3 appeals at the Belvedere Holiday Flats relating to flats 1, 5 and 19 - each of which were refused at the April 2011 meeting. However, the Inspector at appeal, allowed the appeals against the Council's decision to refuse a variation to the restrictive condition. The Inspector's decision is reproduced at page S??. In reaching his decision the Inspector concluded that the Revised Guidance on PHAA's should be given considerable weight in determining the appeals. He also concluded that allowing the appeals "would be very unlikely to have any perceptible impact upon the holiday atmosphere of the wider PHAA or the locality, and that there was nothing to demonstrate that it would harm the character or function of the PHAA".

The Inspector also noted that the decision to grant a variation of condition for flat 7 to allow permanent residential accommodation did set a precedent and in the absence of any change in circumstances there would be a presumption in favour of approval. According to the Inspector the proposal was in accordance with policy TU6. These appeal decisions have over-riding weight when determining the current and future applications for variations to the use restrictive condition on properties at Belvedere.

S106/CIL -

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. However, Council also resolved that any such contributions should not be applied retrospectively in relation to applications submitted before their determination. The original application in respect of flat 8 was validated before 24th March and so no Community Infrastructure Contribution was due for the proposal when it was originally determined. It is felt that under the circumstances it would not be appropriate to ask for a contribution from any applicant who is re-applying for permission following a previous refusal, so long as the original application was submitted before Committees determination date (24th March 2011). This would apply to this current application.

Conclusions

The Belvedere is situated within an area in which the Revised Guidance on PHAA's states that residential use of holiday accommodation may be permitted. The Inspector has confirmed the materiality of this policy. There are no changes in circumstances that would indicate that a different decision should be reached from that made by the Inspector. There is thus significant weight in favour of approving this application.

Relevant Policies

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Agenda Item 8

Application Number

P/2011/1257

Site Address

Flat 9 Basement
64 Windsor Road
Torquay
Devon
TQ1 1SZ

Case Officer

Mr John Burton

Ward

Ellacombe

Description

Conversion of basement to 1 number flat with 2 bedrooms - retrospective.

Executive Summary/Key Outcomes

The space as residential accommodation already exists. However, following a recent refusal of planning permission on appeal, the accommodation is not currently authorised for use as a separate unit. The Council's Planning Investigation Team have used negotiation and persuasion to ensure that the space is part of the unit on the ground floor, linked by a set of stairs. Thus the number of units at the property has not been increased. Following a recent decision by Members in relation to a HiMO two doors up (November's Committee), it is considered difficult to justify refusal of this application for one more unit. Although the Highway Authority raises concerns about the shortfall of parking that would result, no specific objections are raised.

Recommendation

Approval.

Site Details

No. 64 Windsor Road is a former guest house (12 beds) set at the western end of a terrace of 4 properties. The current accommodation is provided over four storeys in the main building (basement, ground, 1st and 2nd floors) with a rear extension comprising 2 floors (ground and 1st). The front garden is partly taken up by a single garage and planted areas, with a single width drive to the west side of the building leading to an area at the rear for further parking. This part of Windsor Road is predominantly characterised by similar buildings, used as single residences, or split into flats. The land slopes downhill quite steeply towards the west.

Detailed Proposals

Planning permission is sought for an extra unit of residential at 64 Windsor Road. The property is currently authorised for use as 7 residential flats and this extra unit would take the total to 8. The accommodation already exists, but is not

currently authorised for use as a separate unit of accommodation.

Retrospective planning permission for use of this space as a separate unit of residential accommodation was applied for in May 2009. During the course of negotiations, the applicant appealed against non-determination and the application was determined at appeal. The appeal decision issued in December 2009 refused to grant planning permission for this extra self contained unit based on the lack of off-street parking that would have resulted at the premises. However, in the light of recent considerations and resolution to approve by Members in respect the use of 68 Windsor Road as a HiMO without any off-street parking, the applicant considers that a precedent has been set which should influence the reconsideration of his application for a further unit at no. 64.

The accommodation proposed shows a 2 bedroom flat within the basement of no. 64 Windsor Road. Accommodation also comprises a separate kitchen, bathroom and lounge. Access into the flat is gained via a door at the side of the property. No extra parking space is, or can be, provided for to serve this extra unit.

Summary Of Consultation Responses

Highways Authority: Whilst their formal observations have yet to be received, it is known that they will raise concerns about the lack of parking without specifically raising an objection. Their formal response will be reported to Members.

Summary Of Representations

One letter of representation has been received and is reproduced at page T.200. This letter expresses concern about the impact of the proposal (based upon the past experience of use of this accommodation), particularly in respect of overlooking, loss of privacy and loss of amenity.

Relevant Planning History

- | | |
|-----------|---|
| 2000/0943 | Planning permission granted in August 2000 for the change of use from guest house to residential house. |
| 2005/0390 | Single storey extension, approved 5th May 2005. |
| 2006/0149 | Conversion to form 9 one bed roomed flats and 1 two-bedroomed flat with parking. Refused March 2006. |
| 2006/0463 | Conversion to form 3 bedroom flat and 3 one-bed flats (first and second floors). Approved 10/5/2006 following Committee site visit. The ground floor and basement were indicated as being owners' accommodation. Parking for 5 vehicles was to be provided at the rear with a single garage to the front of the site. |

2006/1418 Conversion to 3 one-bed flats approved 5th March 2007.

2009/0432 Conversion of former owners basement accommodation to owners self contained 2-bed flat (retrospective) - application not determined, but dismissed on appeal.

Relevant Policies

PPG3 "Housing"

PPG13 "Transport"

Torbay Local Plan 1995-2011 -

HS Housing strategy

H2 New housing on unidentified sites

H4 Conversion and sub-division into flats

H6 Affordable housing on unidentified sites

H10 Housing densities

CF6 Community infrastructure contributions

T25 Car parking in new development

Key Issues/Material Considerations

The 2009 appeal decision

The relevant appeal decision in relation to the use of the basement as a separate unit of residential accommodation, is reproduced at page T.200. The main gist of the Inspector's reasoning is as follows. He considered the main issue to be the effect of the scheme on road safety given that the proposal would result in extra parking on the public highway. He noted that the site would be short on parking by 6 spaces if the scheme was to have been approved. He noted the traffic speed permissible on Windsor Road (30mph), concluded that extra parked cars on street would obstruct the flow and would lead to danger where pedestrians tried to cross the road. He considered that this would set an unfortunate precedent. He also noted that the locality was too hilly to promote cycling, and the nearest bus stop was too far away down the hill to encourage use of public transport. He considered the hilly nature of the surrounding road network made it unlikely that people would want to walk to the town centre. He also noted that one extra flat would not have any significant impact on local housing shortages and would be outweighed by road safety concerns. None of these circumstances have really changed over the intervening two years.

Principle and Planning Policy -

The primary relevant planning policy considerations are Planning Policy Guidance note no. 13 - 'Transport' - (January 2011), Planning Policy Statement no. 3 - 'Housing' - (November 2006) and the Department for Transport's Manual for Streets (which gives advice on design and safety issues for residential roads). On a more local level, the relevant policy within the saved adopted Torbay Local Plan is policy T25 (car parking standards). There would

clearly be a shortfall on off-street parking to the Council's adopted standards, which could result in a reason for refusal. However, these standards set a maximum and not a minimum threshold and have been relaxed in similar circumstances due to location and other relevant factors. Notwithstanding the inspector's findings in 2009, the opinions espoused by officers in relation to the HiMo application at number 68 Windsor Road are relevant and determine that the site has relatively good access and connectivity.

Precedent

Despite the issues raised above, Members must take into account the precedent that has been set by their decision to approve a HiMO, two doors up from this current development site. That permission granted in November 2011, granted planning permission for a HiMO at no 68 in accordance with the licence under Environmental Health Legislation, and as such authorised up to 14 residents. This was done despite there being no off-street parking available. It is likely that this would constitute a significant consideration on any subsequent appeal were this current application to be refused.

Size of residential accommodation

This Council is trying to encourage larger accommodation and family units because there is an over-supply of small one bed flats within the Bay and particularly in Ellacombe. This proposal meets the requirements that the Council is aiming to encourage because it is a two bed unit of sufficient size. On this basis there are no issues surrounding the quality of the accommodation being proposed.

S106/CIL -

In line with Government advice, sound economic principles and principles of sustainable development, the Council has decided that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. This is made quite clear in policy CF6 of the Saved Adopted Torbay Local Plan. In line with Central Government legislation and advice from the Government Office for the South West, the Council has now adopted a Supplementary Planning Document which provides justification for this approach and levels of payments that would be sought in relation to specific developments. This is detailed in Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). This was originally adopted in May 2008, but has now been examined again and re-interpreted in the light of the current severe economic problems faced by this country, in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The 'Planning contributions and affordable housing supplementary document, update 3: Economic recovery measures', was adopted by the Council in April 2011. It is therefore appropriate to evaluate the amount of the required 'developer contribution' in line with this adopted revision to the policy. The amount of contribution due would be based upon the floor space to be created in

each unit. The unit measures approx. 68 metres square and so it would fit within the second category for contributions. In this instance, it is considered appropriate for contributions to be sought for the following criteria:-

Waste Management	£ 50.00
Sustainable Transport	£1720.00
Lifelong learning	£ 220.00
Green space	£1120.00
TOTAL	£3110.00

Conclusions

Although the scheme does not provide the recommended level of off-street parking to serve the total number of 8 units as set out in Local Plan policy T25, the site is reasonably well located to the town centre. Furthermore, although the inspector dealing with the 2009 appeal determined that the lack of off street parking should lead to the appeal being dismissed, the precedent set by the recent decision at no. 68 is a material and significant consideration. It is also relevant that the proposal would create a residential unit of reasonable size. The question is therefore whether or not the provision of a good quality unit can outweigh the potential impact on parking. Given the location, the limited impact of one additional unit and the precedent set two doors up for a HiMo, Officers are of the opinion that it would and as such the recommendation is one of approval.

However, any resolution to approve should be subject to a planning obligation under s106 of The Act, particular to ensure that the sustainable Transportation element is provided to assist non car movement in the area. The Applicant has indicated his willingness to enter into a Planning Obligation.

Informative(s)

01. This application is the subject of a Planning Obligation under s106 of the Town and Country Planning Act 1990.

Relevant Policies

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Dismissed Appeals

Site:- Former Pontin's Wall Park Holiday Centre, Wall Park Road, Brixham, TQ9 9UG

Case Officer:- Pete Roberts / Pat Steward

LPA ref:- P/2010/0541/MOA

PINS Ref:- APP/X1165/A/11/2145178

Proposal:- Demolition of the bungalow on Wall Park Road and all buildings on site and the erection of up to 219 residential dwellings, a 60 bed care / nursing home (C2 Use), 2 bat barns, (1 of which to be a heated winter roost), use of land for touring caravans / camping and associated administration facilities, alteration of access onto Centry Road and alteration of access onto Wall Park Road together with the provision of a formal LEAP and information public open space, landscape and wildlife mitigation measures and associated works. All matters are reserved apart from access.

Council's decision:- Refuse on the grounds of landscape / AONB impact and loss of a tourism site, contrary to Local Plan policy.

Inspector's reasons:- The Inspector considered there were three main issues to consider:

1. The effect of the proposed development on the character and appearance of the AONB;
2. Whether redevelopment of the site for non-tourism uses would be appropriate; and
3. whether the proposal is supported by the deliverability of a 5 year supply of housing land in Torbay.

On the first issue (**landscape / AONB**), a significant amount of new evidence / information was submitted by the appellants. This showed the proposed development had a greater impact on landscape / AONB than was revealed in information submitted with the planning application. The Torbay Landscape Character Assessment and Brixham Urban Fringe Study provided very useful context for the assessment of impact. The Inspector considered that the proposal would have beneficial impacts in terms of nature conservation, but concluded that the AONB was designated for its landscape and scenic beauty and that these issues carry greater weight than nature conservation. Consequently he considered the proposed scheme would be harmful to the character and appearance of the AONB.

On the second issue (**tourism**), the Inspector considered the existing buildings on site had come to the end of their design life and were not capable of viable re-use. In relation to tourism policy (specifically TU10), the Inspector considered the site has already been lost as a tourist destination and that loss of the site would not have a negative impact on the general holiday character of the area, noting that the future of tourism in Brixham is likely to be better served by other forms of accommodation. He also expressed doubt that the site falls within a prime location for holiday use and suggests the site will not be sufficiently attractive (in terms of location) to support a major tourism investment. The Tourism Strategy (Turning the Tide) provided a useful point of reference for the Inspector on the quality of offer to tourists and quantity of bed spaces. He noted the need to retain at least 10,000 holiday park bed spaces, but agreed the number of such bed spaces currently is closer to 16,500 than the 12,300 quoted in the Strategy. The Inspector also acknowledged increased demand for premium caravans and lodges, including those acquired as second homes. The Inspector concluded the site does retain some potential for limited reuse for tourism purposes and, as such, the proposal is contrary to Local Plan policy and national policy (PPS4) on tourism.

Consequently, the Inspector supported the Council's reasons for refusal.

On the third main issue (**housing**), however, the Inspector considered whether the Council has met the requirement (in national policy – PPS3) to provide a 5 year supply of housing land. PPS3 indicates that, in the event of a 5 year supply not being available, planning applications for housing should be considered favourably (Members should note a similar approach, re a 6 year supply, is being taken in the draft National Planning Policy Statement). Having considered a range of different options (for the numbers of homes the 5 year land supply should cater for), the Inspector accepted that current local plan policy on housing was the only one capable of having ‘development plan’ status (i.e. RSS and emerging Core Strategy policies do not have that status). Consequently, the Inspector attached no weight to the 20,000 and 15,000 new homes target set out in RSS iterations, but appears to give some weight to the 10,000 new homes target and the DCLG’s more recent household projection (2011 – 2031) of 13,051. On the basis of housing land provision in the Bay, these two ‘targets’ equate, respectively, to 5.24 and 3.65 years supply.

The Inspector also considered the numbers of houses being delivered (which is different to the supply of housing land). He acknowledged the rate at which houses are built and sites are developed are matters largely outside the Council’s control. Nonetheless, the Inspector considered the Council was optimistic in its prediction of 720 houses per annum over the next 5 years, which he thought reflected ‘housing boom’ delivery rates. He considered the housing completion rate, of 391 per annum, over the last 3 years (of recession) was more likely to continue. In his view, this rate was reflected in the appellant’s realistic method of calculating building rates. The Inspector also thought the delivery of a significant number of affordable houses in the proposed scheme was an important benefit.

He concluded there is not a current 5 year supply of housing land available in Torbay. This assessment of Torbay’s position is likely to have significant implications for decisions on major development proposals, especially those on arguably less sensitive sites. It will be important for the Council to address, as quickly as possible, this shortfall in housing land availability. The availability of land carries more weight if it has a recent planning permission, rather than just being an allocated site for example. Many Local Planning Authorities only use land with planning permission in the calculation of five year land supply.

A range of others issues, including **traffic**, were considered by the Inspector – as they were raised by third parties. The Inspector found no reason to object to the proposal on highway grounds.

The Inspector also considered all the components of the scheme (housing, care facility, caravan and camping) to be relatively footloose and capable of being accommodated on other sites outside the AONB.

The Inspector did not consider Torbay’s under-supply of housing land or the prospect of affordable housing provision to be so exceptional as to ‘over-rule’ national and local requirements to protect AONB. He also concluded the site retains some prospect of redevelopment for a tourism-based use. Consequently he considered the site to be both unsuitable for housing and environmentally unsustainable.

The Inspector dismissed the appeal.