

**Application Number**

P/2011/0227

**Site Address**Shedden Hall Hotel  
Shedden Hill Road  
Torquay  
Devon  
TQ2 5TX**Case Officer**

Mrs Helen Addison

**Ward**

Tormohun

**Description**

Part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking

**Executive Summary/Key Outcomes**

This application was conditionally approved subject to completion of a S106 agreement at the meeting of the Development Management Committee on 18.4.11. A variation of the S106 agreement was subsequently agreed at the meeting on 17.10.11, subject to the S106 agreement being completed by 17.11.11. As this time period has expired it is necessary for the application to be reconsidered by the Development Management Committee. The S106 agreement has now been virtually completed. An extension of time for a further 6 months is requested to provide time to ensure that the S106 agreement is finalised.

**Recommendation**

Subject to the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the date of this committee; Conditional Approval.

**Site Details**

The application site is the Shedden Hall Hotel which is a large Victorian property situated on the west side of Shedden Hill. The building has most recently been in use as a hotel, although it is understood to not be currently trading. It has been extensively extended in the past. It is situated at the back of the pavement and is a prominent building and clearly visible in the street scene. It is also visible in views across the site from the sea front. The original part of the building is a Victorian Villa.

Shedden Hill road slopes to the south past the site. The ground levels on the site also drop significantly to the west. The existing building appears as two storeys in height fronting Shedden Hill. Due to the changes in ground level on the site

accommodation is provided over four floors. There are extensions at both the north and south ends. There is a large mature Turkey Oak tree in the rear curtilage of the property.

The surrounding area is largely in commercial use. There are a number of hotels in the area. Land to the west is in use as a public car park. In the Torbay Local Plan 1995-2011 the site is shown as being within the Belgravia Conservation Area and within the PHAA (Principal Holiday Accommodation Area). The site falls within the amber area of the Council's recently adopted PHAA guidance where residential use may be permitted subject to consideration of viability and facilities.

### **Relevant Planning History**

Extensive previous planning history. Most recent application are as follows:

- 2010/0884 Conversion of hotel to 9 holiday apartments with owners accommodation and construction to 2 buildings to form 14 residential flats. Withdrawn 4.3.11.
- 2005/2079 White UPVC windows and French doors. Approved 31/1/2006.  
1996/1118 Demolition works in connection with alterations and extensions at 3rd floor level to form additional bedroom accommodation. Approved 16/12/1996
- 1996/1117 Alterations and extensions at 3rd floor level to form additional bedroom accommodation. Approved 16/12/1996.
- 1996/1116 Alterations and extensions at basement and ground floor level to form additional bedroom accommodation. Approved 16/12/1996.
- 1996/1115 Demolition works in connection with alterations and extensions at basement and ground floor level to form additional bedroom accommodation. Approved 16/12/1996.
- 1995/1115 Demolition of works in connection with erection of detached garage. Approved 23/11/1995.
- 1995/1114 Erection of detached garage. Approved 23/11/1995.

### **Relevant Policies**

In the *Torbay Local Plan 1995-2011* the following policies are relevant:

- H2 Promotes sustainable forms of new development
- H6 Affordable housing will be secured on residential sites that meet the threshold requirements
- H9 Requires a high standard of design, taking into account characteristics of

- existing environment
- H10 Supports development at maximum densities
- H11 Open space requirements for new housing
- TU6 Changes of use that are detrimental to the character and function of the PHAA will not be permitted
- CF6 Requires appropriate contributions to provide social, physical or environmental infrastructure
- L9 Development will only be permitted where trees will not be harmed
- L10 Major development and landscaping
- EP1 Supports incorporating energy saving features into design and layout
- BES Requires new development to conserve or enhance the built environment
- BE1 Requires design of new development to take account of the wider context
- BE2 Proposals for new buildings should incorporate landscaping as an integral part of the design
- BE5 Development will only be permitted where it will preserve or enhance the character or appearance of the conservation area
- T2 Sets out a transport hierarchy for all new development
- T25 Maximum car parking standards are set out in the schedule
- T26 Requires a safe standard of access

Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan March 2010

### **Proposals**

The application is for the following:

- Conversion of the existing building into 7 residential dwellings. At ground and first floor 2 x two bedroom apartments are proposed. Two x 2 bedroom apartments both with studies would be formed over the lower ground and lower lower ground floor levels. The seventh unit would be formed to the north of the main building on part of the site where the existing building would be demolished. It would have two bedrooms and be split over the ground and first floors. As part of the proposal the following extensions to the building would be demolished; the large flat roof southern extension, the two storey northern extension, the flat roof extension on the south side of the building and an extension on the rear (west) of the building. The majority of the dwellings would be accessed from a new entrance that would be formed at the northern end of the building.
- Construction of a new detached 4 storey building to the south of the main building to form 4 residential dwellings. The proposed building would be sited adjacent to Shedden Hill Road. It would comprise two x 3 bedroom dwellings and one x 4 bed dwelling split over 3 levels and a three bedroom penthouse at roof level which would be accessed by a lift and stairs. Materials would be rendered walls with stone at lower ground floor level and lead effect roof.

- Construction of a 2 storey detached building at the rear of the main building to form three apartments. Two of these would be at ground floor level with the third apartment at first floor level. Materials would be rendered walls with a pitched slate roof.

Vehicular access to the site would remain in the same position. Sixteen parking spaces are shown at the rear of the site. The existing garden area within the site would be retained. The swimming pool is shown as being removed. The large mature Turkey Oak tree at the rear of the site would be retained.

The application is a resubmission of application reference 2010/0884 which was withdrawn. In comparison with this proposal the proposed use of the dwellings/apartments on the site has been revised to full residential use rather than a split residential/ holiday use and the design of the detached new building to the south of the main building has been significantly revised.

### **Consultations**

*Senior Transport Planner:* Consultation response awaited

*Highways:* require 1.5 parking spaces per dwelling, widening of the access with the footway crossing also being widened and a S106 contribution.

*Drainage and Structures:* Consultation response awaited

*Arboricultural Officer:* requests further detail of how the development will be managed around the oak tree.

*Conservation Officer:* Consultation response awaited.

*English Heritage:* The application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

*Drainage and Structures:* requests further information relating to drainage of surface water.

### **Representations**

One letter of objection received and reproduced at Page T.208 The following points are raised;

- Loss of fine views
- Impact on local area
- Loss of light
- Overdevelopment

### **Key Issues/Material Considerations**

The main issues are the principle of the loss of a holiday use from the site, the principle of the proposed development within the Conservation Area, the design of the proposed buildings and their impact on the appearance and character of the area, along with highways impact, trees issues and Section 106 obligations.

### **The principle of the proposed change of use of the site from a hotel to 14 residential dwellings**

The Council adopted revised guidance on PHAAs in March 2010. In this document the application site is identified as being within the 'amber' category and the guidance relevant to a 26 bedroom hotel advises "Residential use may be permitted, subject to consideration of facilities and viability". The guidance advises that amber areas retain a fair holiday character. For medium sized hotels "Changes of use to residential may be granted, subject to location, range of facilities, viability and other considerations".

In this case the site is reasonably well located for holiday use as it is close to the sea front and the town centre. There are good sea views from accommodation on the south side of the building. There are a number of properties in holiday use in the vicinity such as the adjoining Heritage Hotel, and the former Belgrave Hotel which is currently being extended.

It is noted that there is a need for investment in the property. In the design and access statement the agent advises that "the present hotel is suffering from dire lack of renovation, renewal and replacement. The building needs urgent maintenance, even the newer parts are suffering from neglect."

Under the previous proposal (2010/0884) the proposal was for a mixed holiday and residential use on the site. However, officers have concluded that it would be preferable in this instance in order to achieve the regeneration of the main villa and the regeneration of the site as a whole, for the site to be used entirely for residential purposes.

Due to the level of investment that would be needed to maintain the existing Victorian part of the building some residential use would be required on the site to generate income to invest in the main building. This would reduce the amount of holiday use on the site. As the site is in a mixed area it is considered that the loss of all holiday use would not have an adverse affect on the tourist character of the area or result in the loss of important facilities in the Bay.

In comparison with the Belgrave Hotel and Heritage Hotel the site is in a more marginal location without direct access to the seafront. The character of the surrounding area has less of a holiday influence. A number of alternative development schemes for the site have been discussed with officers over several years. It has been difficult to find a viable solution that enables the retention of some holiday use on the site, whilst providing the required improvements to the existing villa.

The current proposal for full residential use would provide a robust solution that would have a positive effect on the townscape of the area and is therefore considered to be the most appropriate approach to development and investment in the site.

On balance the benefits attributable to the development of the site outweigh concerns about the loss of a tourist related use.

### **The principle of the proposed development within the Conservation Area and design of buildings**

The proposal presents an opportunity to remove unsightly extensions that have been added in the past and therefore to improve the appearance of the original building. Extensive areas are proposed for demolition. These are modern additions that detract from the appearance of the original building and the removal of these would significantly improve its appearance.

The proposed new building to form 4 permanent residential apartments would be situated adjacent to Shedden Hill and would be clearly visible in the street scene. There are currently views of the sea from the road and the proposal would have some affect on these. The design and access statement identifies that the proposed building would be detached from the main building thereby creating punctuation to the street scene. The height of this building would be lower than the main building on the site, with the second floor accommodation set within a mansard roof. An elevation showing the scale and height of the proposed building relative to the existing building and the adjoining Heritage Hotel has been submitted. The appearance to Shedden Hill Road would reflect the main building through the use of a relatively simple rendered elevation on a single plane with sash windows.

The proposed building would constitute a significant scale of development on the site and would inevitably have some impact on the appearance and character of the Conservation Area. However, the proposal should be considered in conjunction with the proposed demolition of the southern wing of the building and the flat roof extensions to the main building, which would significantly improve the appearance of the building and constitute a positive improvement to the appearance and character of the Conservation Area.

The scale and design of the proposed pavilion that would accommodate 3 additional units of permanent residential accommodation would be subservient to the main building. It would be sited behind the main building and would barely be visible in the street scene. It would in part replace a two bedroom unit of accommodation on the west elevation that would be demolished. The design of the proposed pavilion would reflect the Victorian character of the main building on the site, although modern side hung windows are proposed. Materials would be rendered walls and a slate roof.

Limited detail of the proposed cottage at the northern end of the site has been submitted. There is some concern about the elevational treatment to Shedden Hill and this has been discussed with the agent.

### **Highways**

It is considered that the provision of on site parking on a one for one basis would be acceptable in this location. Additional off site parking is available in the nearby Shedden Hill car park and Lower Union Lane car park. Cycle parking has been included within the scheme.

In the design and access statement it is advised that the existing steep sloping access would be improved by turning the access road and raising the lower parking levels which would permit the gradient to be reduced.

The highways officer has requested the access to be widened with the footway crossing being widened to improve accessibility and a Section 106 contribution.

### **Trees**

There is a mature Turkey Oak tree on the site that is shown as being retained. The arboricultural officer has requested the submission of further information to clarify the relationship between the tree and the proposed Pavilion building. The applicant needs to demonstrate that the proposal wont result in future pressure to fell the tree because of its proximity to the proposed building and the affect of the tree on the residential amenity of the occupiers. He has also requested clarification of the sequence of building in the area around the tree, the finished material around the tree, details of drainage around the tree, a tree protection plan and suggested that timber posts be installed at the end of the adjacent parking area to prevent vehicle manoeuvring in the vicinity of the tree.

A condition will be needed to ensure that the tree is protected in accordance with the agreed details during construction. A landscaping condition would also be appropriate on a development of this scale to secure appropriate planting around the site.

### **Section 106 Contributions**

The proposal for the loss of a 26 bedroom hotel and formation of 14 permanent residential apartments would require the payment of Section 106 contributions in accordance with Policy CF6.

The number of units within the proposed development would fall below the threshold to require the provision of affordable housing under Policy H6. In accordance with the updated SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" the following contributions are required;

Waste Management	£ 650
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Stronger Communities	£ 2320
Lifelong Learning	£ 4970
Greenspace	£26530
Monitoring	£ 2800
<b>Total</b>	<b>£37270</b>

It is noted that a number of the units are of a substantial size in terms of floor area and consideration needs to be given to the fact that only 14 units have been provided on the site (below the threshold of 15 at which the need to provide affordable housing kicks in).

There are two ways in which additional units could be provided on this site. The first is to increase the bulk of building, this would not be an acceptable approach given that this scheme has been negotiated over several months following concerns raised about the height and bulk of building that was previously proposed.

The second option would be to sub-divide some of the units into smaller flatted accommodation in order to provide more than 14 units. This would be achievable in this case, given the size of some of the units. However, this would, in the opinion of officers, be a retrograde step, given the commitment in this case to large family units of accommodation and given the mix that has been achieved on this site.

There is a paucity of this type of accommodation in the vicinity, with many properties having been converted to small single bedroom flats and it is this larger family size of property that is in shortest supply on the housing market.

In order to ensure that, in the event one or more units apply for subdivision in the future, appropriate S106 contributions are paid for the provision of affordable housing it will be appropriate for the Council to control any subdivision through the S106 agreement. This would clarify through restrictive clauses that the site would be considered as a whole and that any sub-division of any of the units will effectively trigger affordable housing contributions, as the total number of units on the site would then be above the threshold of 15 or more. This would be applicable notwithstanding the ownership of the dwellings on the site. In addition a monitoring contribution is required as part of the S106 agreement to enable the use of the site and any potential sub-division to be monitored.

It should be considered that this scheme enables the demolition of the poor additions to the main villa and its restoration, these positive enhancements form part of the package in this case and would be less likely to come forward were the scheme to be required to provide affordable housing. It is considered that in this case the number of units and the mix of accommodation is appropriate for this site.



In accordance with the SPD “Planning Contributions and Affordable Housing: Priorities and Delivery” no sustainable transport contribution would be required because the mitigation from the existing use as a 26 bedroom hotel with owners accommodation outweighs the transport impact of use of the site by 14 dwellings.

#### **UPDATE 18.4.11**

This application was considered at the meeting of the Development Management Committee on 21st March 2011. Members decided to approve the application subject to the Executive Head of Spatial Planning resolving issues relating to consultation responses, trees, design, schedule of works and S106 agreement.

The application was included on the agenda for the 21st March meeting although the consultation period did not expire until 1st April. A letter of objection has been received since the previous meeting and the points raised should be considered by Members. In addition following a meeting with the applicant it has become apparent that the works of improvement to the main building will not be carried out until all the new development is completed. It was originally requested that these works be carried out before the new development commenced, as the new development constitutes ‘enabling’ development which will allow investment in and improvement of the original villa. The applicant has explained that the income from the new development will be needed in the first instance to provide capital to invest in the original villa. In order to ensure that the investment in the building does occur this will need to be addressed in the S106 agreement. In a similar case at the Palace Hotel in Paignton a joint bank account was set up between the developer and the Council. This is likely to be an appropriate solution in this case, subject to advice from the Council’s solicitor.

It appears that the property is not currently trading as a hotel and is in use as a House in Multiple Occupation (HIMO). The applicant has submitted an application for a HIMO licence to the Council in which it is stated that there are 24 letting units in the property and there are 27 people living there. The lawful use of the property is as a hotel and no planning permission has been granted for use as a HIMO. If the use continues as a HIMO for a continuous period in excess of 10 years without the Council serving an enforcement notice it could become the lawful use. There is a concern that a HIMO on this scale in this location would be inappropriate because of the impact that it would have on the appearance and character of the area. Therefore, officers recommend that an enforcement notice is served to require the use of the property as a HIMO to cease.

The applicant has also been requested to make a number of minor alterations to the design of the proposed development. Revised plans are awaited.

At the last meeting of the Development Management Committee Members were requested to agree that the S106 agreement should be signed by 23rd May in

order that the decision notice could be issued within the 13 week target date. It is likely that, given the complexity of the agreement, further time will be required to execute it. As such, it is suggested that this date should be extended to 6 months from the date of this committee meeting.

**Sustainability** - The proposal would result in development of a brown field site. It is located within walking distance of the town centre and is a sustainable location for residential development.

**Crime and Disorder** - Subject to the incorporation of normal crime prevention measures it is unlikely that there would be an increase in crime.

**Disability Issues** - The proposed block of 4 dwellings would include a lift. It is also proposed to install a lift into the main building.

### **Conclusions**

In conclusion, the Council's recently adopted guidance on PHAA's has provided increased flexibility in considering proposals relating to premises in holiday use. The site is in an "amber" area which allows residential use in appropriate circumstances.

In this case the proposal represents an opportunity to significantly improve the appearance of the existing building through the removal of largely unsympathetic extensions. The proposed development of two detached buildings in the curtilage of the property would retain the integrity and character of the main building and would be unlikely to harm the appearance and character of the area. In this instance, the loss of a tourism use from this site would not significantly harm the tourist industry in the locality. Subject to the receipt of satisfactory further information it is considered that the proposal would be consistent with the objectives of the policies in the Torbay Local Plan 1995-2011 and therefore would constitute an appropriate form of development in this location.

### **Condition(s)/Reason(s)**

01. The boundary wall to Shedden Hill shall be reinstated to a stone wall with cock and hen capping and any repairs shall be carried out in natural stone laid with a lime mortar as shown on plan reference 2074s/133A dated 21st February 2011 prior to the occupation of the dwellings in the existing building hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area in accordance with Policies BES, BE1 and BE5 of the Torbay Local Plan 1995-2011.

02. Notwithstanding the details submitted in the planning application, prior to the commencement of any of the works hereby approved on the site a schedule

of all the works to be carried out to the main villa and details of the timing of these works and their implementation shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved schedule, unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the visual amenity of the area and in accordance with Policies BE1 and BE5 of the saved adopted Torbay Local Plan 1995-2011.

03. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason; In the interests of visual amenity in accordance with Policies BE1 and BE5 of the Torbay Local Plan 1995-2011.

04. The parking and cycle parking facilities shown on the approved plan shall be provided before the use of the dwellings hereby approved commences and thereafter used for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason; To ensure that parking facilities will be available at all times to serve the premises, in accordance with Policy T25 of the Torbay Local Plan 1995-2011.

05. No development or other operations shall commence on site until the existing tree to be retained has been protected in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the erection of fencing for the protection of any retained tree before any equipment, machinery or materials are brought on to the site for the purposes of development or any other operations. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.

Reason; To safeguard the existing trees and hedges in accordance with Policy L9 of the Torbay Local Plan 1995-2011.

06. The development hereby approved shall not commence until sections and elevations to a scale of not less than 1:20, indicating the following details, have been submitted to and approved by the Local Planning Authority:

- (i) eaves overhang;
- (ii) rain water goods;
- (iii) reveals to window/door openings;
- (iv) sub cills;
- (v) glazing bars.

The buildings shall not be occupied until it has been completed in accordance with these details.

Reason: To ensure that the architectural detailing of the development is completed to a satisfactory standard in accordance with Policies BE1 and BE5 of the Torbay Local Plan 1995-2011.

07. Before any development is commenced details of the existing and proposed levels of all buildings or structures and the levels of the site, any changes proposed to the site including to the parking areas and the finished ridge levels of the new buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved level details unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of visual and residential amenity, in accordance with Policies BE1, BE5 and H9 of the Torbay Local Plan 1995-2011.

08. The dwellings hereby approved shall not be occupied until the areas for demolition shown on plan reference 20745/120A dated December 2010 have been demolished unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the amenity of the area in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

09. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the building occupied. Development shall be carried out in accordance with the approved treatment.

Reason; In the interests of the amenity of the area in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

10. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping. This

scheme shall include details of the size, species and positions or density of all trees and shrubs to be planted, and shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interest of the amenities of the area, in accordance with Policy BE2 of the Torbay Local Plan 1995-2011.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area, in accordance with Policy BE2 of the saved Torbay Local Plan 1995-2011.

12. This permission is related to an Agreement entered into by the applicant and the Torbay Council, under Section 106 of the Town and Country Planning Act 1990.

Reason; For the avoidance of doubt and to ensure a satisfactory standard of development.

13. Notwithstanding the provisions of Part 1, Article 3 Classes A,B,C,D and E of the Town and Country Planning (General Permitted Development) Order 2008 (or and Order revoking or re-enacting that Order with or without modification), the enlargement, improvement or alteration of any dwelling; the addition or alteration to its roof; the construction of a porch; or the construction of any structure within the curtilage shall not be allowed without the granting of a specific planning permission.

Reason; To safeguard the residential character of the area, in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

14. Unless otherwise agreed in writing by the Local Planning Authority, prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved by the Local Planning Authority, such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage.

### **Relevant Policies**

- H2 New housing on unidentified sites
- H6 Affordable housing on unidentified sites
- H9 Layout, and design and community aspects
- H10 Housing densities
- H11 Open space requirements for new housing
- TU6 Principal Holiday Accommodation Areas
- CF6 Community infrastructure contributions
- L9 Planting and retention of trees
- L10 Major development and landscaping
- EP1 Energy efficient design
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- BE5 Policy in conservation areas
- T2 Transport hierarchy
- T25 Car parking in new development
- T26 Access from development on to the highway