

Application Number

P/2013/0565

Site Address48 Torwood Street
Torquay
Devon
TQ1 1DT**Case Officer**

Mr Alistair Wagstaff

Ward

Wellswood

DescriptionVariation of condition reference P/2012/0099
Condition 1 - Alterations to frontage**Executive Summary/Key Outcomes**

The application seeks consent to vary condition 1 of planning application P/2012/0099 'change the use of the premises from A1 (Retail/Shop) to A3 (Restaurant/Café)'. To read:

'The existing lockable metal security gate, or a replacement gate details of which shall be submitted to and approved by the Local Planning Authority, shall be retained. This gate shall be kept locked closed outside of restaurant opening hours'.

The key issues are considered to concern the impacts on the residential amenity of nearby occupants, the impacts on the commercial ground floor unit and the impact on the Conservation Area.

As set out within the report, the proposed variation of condition is on balance considered to be acceptable on planning merit.

Recommendation

Approval

Statutory Determination Period

8 Weeks, expires 26th June 2013

Site Details

The site contains an existing retail unit that is currently being converted to A3 use under planning application P/2012/0099. The site is situated just up from the junction of Torwood Street, The Terrace and Parkhill Road. The site lies within

the Town Centre boundary, is within the Torquay Harbour Conservation Area and is designated in the Saved Adopted Torbay Local Plan 1995-2011 as secondary shopping frontage.

Detailed Proposals

It is proposed to substitute condition 1, which currently reads:

‘Details of a frontage shall be submitted to and approved by the Local Planning Authority prior to the commencement of a change of use in accordance with this application. Such details shall include clear definition of, and separate entrances for, the residents of the accommodation above and shall be fully implemented prior to the commencement of the use as hereby approved and maintained as such at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the change of use does not adversely impact on the amenity of the neighbouring occupiers in accordance with policy S4 of the Saved Adopted Torbay Local Plan 1995-2011.’

with the following proposed condition:

‘The existing lockable metal security gate, or an replacement gate details of which shall be submitted to and approved by the Local Planning Authority, shall be retained. This gate shall be kept locked closed outside of restaurant opening hours.

Reason: To ensure that the change of use does not adversely impact on the amenity of the neighbouring occupiers in accordance with policy S4 of the Saved Adopted Torbay Local Plan 1995-2011.’

Summary Of Consultation Responses

None received

Summary Of Representations

None received at the date of writing the report. Submitted with the application are signed letters of support from the residents of the flats in the wider building, for the retention of the door in its current location, 1 resident has not signed, as the flat is currently for sale.

Relevant Planning History

P/2012/0099 Change of use of ground floor and basement from class A1 to class A3. Approved. 08/05/2012

P/2012/1032 Variation of condition 4 to application P/2012/0099/PA use hereby approved shall only be operational between the hours of 08:00 and 00:00 Sunday-Thursday and between the

hours of 08:00 and 00:30 Friday and Saturday. Approved.
13/11/2012

CN/2012/0069 Discharge of conditions to application P/2012/0099

Condition 1 - Frontage details

Condition 2 - Noise insulation

Condition 3 - Waste and recycling

Key Issues/Material Considerations

The key issues are considered to concern the impacts on the residential amenity of occupants of the building and nearby occupants, the impacts on the commercial ground floor unit and the impact on the Conservation area.

Before considering the impacts of the variation it is first important to consider what the change in condition will do. The existing condition has been discharged by an elevation photo and a floor plan. This shows the existing residential flats' entrance being blocked up and a new entrance to the flats provided immediately next to this (approximately 1 metre). This ensured that there was a reduction in conflict between the people using the entrance to the flats and those people visiting the restaurant.

The impact of the variation of the condition is that the existing situation with the restaurant door and the entrance door to the flats opening in to the same space will remain. It would also ensure that the entrance gate and any future entrance gate being locked shut outside the restaurant opening hours.

In terms of the impact on the Conservation Area this variation of condition results in no physical change and as such there is no impact on the Conservation Area.

In terms of the impact on adjoining occupiers there will be no change and as such there is no impact.

In term of the commercial use, the key consideration is whether the conflict between their customers and the 7 flats residents' would cause substantive impact. Previous to application P/2012/0099 this was the status quo. Due to the limited number of residents the impact of the situation remaining is not felt so substantive as to warrant the refusal of the application.

The concern therefore relates to the impact on the residents of the building. The only impact of the change is that the two doors remain in the same location rather than being approximately a metre apart. It was the concern of this relationship that lead to the imposition of the condition on the original application.

It is clear from the letter provided in support of the application that the vast majority of residents of the building are in favour of the status quo remaining. In

terms of the residents' living conditions there is an additional benefit to the residents, in that the existing gate would, in accordance with the proposed condition, now be locked outside the restaurants opening hours. This would ensure that any potential anti- social behaviours which could take place in the recessed porch area from the night time economy, are excluded from this area.

On balance given the additional benefit to the residents and given that all but 1 of the residents would prefer the existing arrangement to remain (and with the addition of the lockable gate), it is considered suitable for planning approval and resulting in an acceptable relationship between the users of the flats and the restaurant.

S106/CIL -
N/A

Conclusions

Having considered the impacts of the proposed variation of condition against the relevant planning policies, on balance the scheme is recommended for approval.

Relevant Policies

BES Built environment strategy
BE1 Design of new development
BE5 Policy in conservation areas
S4 Secondary shopping frontages