

**Application Number**

P/2013/0775

**Site Address**

The Corbyn Apartments  
Torbay Road  
Torquay  
Devon  
TQ2 6RH

**Case Officer**

Mrs Helen Addison

**Ward**

Cockington With Chelston

**Description**

Modification of Section 106 ref: P/1991/0370 to allow eight apartments to be occupied on a permanent residential basis and the remaining 9 apartments to be used for holiday letting except during the winter months when they could be used for short term letting.

**Executive Summary/Key Outcomes**

The application is to modify the existing S106 agreement relating to the 17 holiday apartments on the site. The proposal is for;

- Eight apartments in the southern half of the building to be used for residential purposes and the nine apartments in the northern half of the building to be used for holiday purposes, with short term letting in the winter months between end of October and Easter.
- The sale of up to six of the residential apartments, with the remaining 11 apartments retained in one ownership.
- Where an apartment is sold a proportion (as yet to be agreed) of the difference between the value of the apartment for full residential use and the value with a holiday use restriction to be reinvested into the Corbyn Apartments business (i.e. funds to be retained in a bank account and drawn down in respect of agreed works only, e.g. maintenance of the apartments).

This proposal would be consistent with Policy TU6 of the Torbay Local Plan 1995-2011 and the Council's guidance in "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 and would therefore constitute an acceptable proposal in this location.

It would provide sufficient flexibility for the serviced apartment block to continue to operate effectively as a business and would have a limited impact on the character of the Principle Holiday Accommodation Area.

### **Recommendation**

The proposed modification to the S106 agreement be granted, providing no representations are received within the 21 day consultation period following re-advertisement of the proposal. This period ends on 24.10.13.

The s106 to be signed and completed within 6 months of the date of this committee.

### **Statutory Determination Period**

The eight week target date for determination of the application was 6th September 2013. The decision on the application will exceed this target. The application has been delayed due to negotiations taking place with the agent on the content of the amended S106 agreement.

### **Site Details**

The application site relates to a modern four storey block of apartments that are in holiday use, situated on the west side of Torbay Road opposite the Livermead Cliff Hotel. The property is clearly visible in the street scene. It is finished in brick and render and has a mansard roof. There is a parking court in the front curtilage of the site. On the southern side of the building is the recent South Sands development of residential properties and on the northern side is the Corbyn Head Hotel. The railway line runs along the western boundary of the site.

The application site is a high class and well maintained holiday operation that contributes positively to the holiday character of the locality.

The surrounding area has a mix of uses which are predominantly residential and holiday. In the Torbay Local Plan 1995-2011 the site is shown as being within a PHAA. In the "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 the site is within an Amber area.

### **Detailed Proposals**

The application is to vary the S106 agreement relating to application reference 91/0370PA, which was for the construction of 17 holiday apartments and associated parking. The S106 agreement limits the occupancy of the 17 apartments as it requires that "the units the subject of the said Planning Application 91.0370 shall be permanently retained for holiday purposes only".

This application is to vary the S106 agreement to allow eight apartments to be used for residential purposes and nine to be retained for holiday purposes, and those 9 also to be let on a short term basis in the winter period between the end of October and Easter.

The applicant is proposing that the S106 agreement be modified as follows;

- The eight apartments on the southern half of the building to be used for residential purposes and the nine apartments on the northern half of the building to be holiday apartments except during the winter months (i.e. outside the main holiday season of Easter to the end of October) when they could be used for short-term residential letting.
- The ability to sell up to six of the residential apartments with the 13 remaining apartments retained in one ownership. If an apartment is sold then a proportion (as yet to be agreed) of the difference in the value of an apartment as a full residential use compared to a holiday use either to be reinvested in The Corbyn / put into a fund for maintenance of The Corbyn;
- If more than 14 units on the site (including the 8 proposed in this application) are changed to permanent residential use then an affordable housing contribution would be paid to the Council;
- S106 infrastructure contributions would be paid for the eight apartments that are changing to permanent residential use; and
- A monitoring contribution is to be paid in order that the clauses proposed (such as maintaining a register of holiday makers) can be monitored.

### **Summary Of Consultation Responses**

N/A

### **Summary Of Representations**

None received

### **Relevant Planning History**

1991/0370 Erection of 17 Holiday Units and associated parking approved 9.3.92

1991/1008 Alterations To Form Caretakers Accommodation To Proposed Holiday Flats Development Reference Number 91.0370.Pa approved 25.9.91

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

The main issues are the principle of changing the use of eight apartments to permanent residential use and the proposed changes to the restrictions on the occupation of the remaining 13 apartments.

### **Principle and Planning Policy -**

In the Torbay Local Plan 1995-2011 Policy TU6 is relevant to the loss of holiday accommodation within a PHAA. This states that proposals which are to the detriment of the character and function of the PHAA will not be permitted. A number of criteria where the loss of holiday accommodation will be permitted are

identified. This includes where the premises lack an appropriate basic range of facilities or have restricted bedspace capacity, both of which would not be applicable in this case.

The remaining criteria relate to the impact on the holiday character of the area and require the proposed use should be compatible with the surrounding tourism related uses.

The Council has produced further guidance in the document "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010. In this guidance the site is within an Amber Area. The guidance states that for Holiday Apartments within an Amber Area conditions on occupancy are likely to be removed.

In support of the application the applicant has advised that the Corbyn Apartments is a loss making business if the apartments are only occupied for holiday use. He considers that the business could be profitable if eight apartments were allowed to be occupied permanently and the remaining nine apartments were used for both holiday letting and short term letting. In recent years limited unauthorised short term lets of the apartments have been carried out, but even with this the business has not been profitable.

A key issue to be considered in this application is whether the loss of these eight good quality purpose built holiday apartments from holiday use would affect the holiday character of the area. The applicant has submitted a comprehensive case that the use of all 17 apartments for holiday purposes in this location is not viable. The proposal to use eight of the seventeen apartments for permanent residential accommodation would mean that the character of the site would change as the holiday use would be notably reduced.

The Council's "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010, states at Para. 3.15 (relating to holiday apartments within an amber area) that "it is recognised that a more flexible approach to their occupancy may allow for a better overall contribution to the economy of Torbay. On this basis, the Council will consider favourably applications to relax occupancy restrictions on holiday apartments to allow residential use".

It is noted that the applicant has requested that the sale of six apartments be allowed and the remaining eleven apartments would be retained within the same ownership. This is seen as a positive aspect of the proposal, as it means the majority of apartments would be operated and run as one business, which would continue to offer fully serviced suite accommodation.

The proposal to allow some residential use on the site would offer flexibility to the owner however it is unlikely that the overall character of the property would

change dramatically as the majority of people occupying serviced accommodation would do so on a short term basis. The agent advises that the applicant is seeking to provide accommodation for those visiting Torquay in the process of relocation and those seeking accommodation due to crisis situations, such as fire, flood, and refurbishment. He also advises that market forces will always prioritise holiday use because they provide up to three times the revenue per day as other guests.

It is considered that the proposal would be within the spirit of the guidance on the interpretation of Policies TU6 and TU7 in that it would allow a flexible approach to the operation of the business. By retaining the majority of the apartments in the same ownership the majority of the apartments on the site would be operated as one business which would lessen a change to the character of the business in comparison with a scenario where a greater proportion of the apartments were sold and operated on a separate basis.

It should be noted that Policy TU8 in the Torbay Local Plan 1995-2011 allows winter letting of holiday accommodation in the period end of October to Easter with a maximum occupancy period of six months. As such the proposal for winter letting is consistent with policy.

#### **S106/CIL -**

The following S106 contributions would be required to offset the impact of the creation of the four new dwellings on local infrastructure;

Waste Management	£ 400.00
Sustainable Transport	£6903.00
Lifelong Learning	£ 158.00
Greenspace and Recreation	£4013.00
South Devon Link Road	£6545.00
Admin charge	£ 901.00
<b>Total</b>	<b>£18,920.00</b>

The total payable would be reduced to £17,975 for early payment.

#### **Conclusions**

In conclusion, the application is to modify the existing S106 agreement to allow the use of eight apartments for permanent residential accommodation with the remaining nine being retained for holiday purposes. In addition six of the residential apartments could be sold by the applicant. A case in support of this application has been submitted that this revision is needed to maintain the viability of the business by introducing flexibility in the way in which the apartments area occupied.

The application site is within a PHAA as designated in the Torbay Local Plan 1995-2011. In the "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 it falls within an Amber area. The guidance in this document supports a flexible approach to the occupancy of holiday apartments.

It is considered that the proposal would have some affect on the holiday character of the area due to the loss of eight units for holiday use. However, the majority of the building would be retained in single ownership and would continue to be operated by the applicant as one business. As such, it is considered that a flexible approach would be appropriate in this instance and the overall change in the character of the business would be limited.

For this reason it is considered that the proposal would be consistent with the objectives of Policy TU6 and the Guidance on the interpretation of Policies TU6 and TU7.

### **Relevant Policies**

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