

Application Numbers

P/2013/0372/MPA
P/2013/0400/PA
P/2013/0401/LB
P/2013/0891/PA

Site Address

Bishops Court Hotel
Lower Warberry Road
Torquay
Devon
TQ1 1QS

Case Officer

Mrs Ruth Robinson

Ward

Wellswood

Description

- P/2013/0372 Erection of 18 residential units (1x2 bed, 8 x3 bed and 9x4 bed) in 2 terraces in garden are to east of Bishops Court Hotel on site of former holiday accommodation.
- P/2013/0400 Amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.
- P/2013/0401 Amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.
- P/2013/0891 Demolition of existing holiday units to the rear of Bishops Court Hotel and replacement with 6 new residential dwellings.

Executive Summary/Key Outcomes

Planning permission and listed building consent were originally granted in 2009 for the redevelopment of the above site, a former hotel set in extensive grounds (P/2008/1623/MPA and P/2008/1624/LB).

The scheme proposed 42 residential units, 8 within the listed former hotel and the rest from redevelopment of the blocks of holiday accommodation in the grounds. The scheme included a spa, pool and a range of health and leisure facilities. The ambition was that the facilities would encourage use of the site in a more holiday centred way than a straight residential scheme would thus mitigating for the loss of the hotel.

The scheme was subject to an IVA and this confirmed that it would make a profit of 5.4% GDV. The applicant at the time agreed to contribute half of this (£336,500) as an Affordable Housing contribution.

The S106 also included deferred contributions in the event of the scheme being more profitable than anticipated, to a maximum of £1.24 million. Community Infrastructure contributions of £63,000 were secured in relation to waste, stronger communities, lifelong learning and green space. Sustainable transport contributions were mitigated due to the existing use of the site for hotel and holiday accommodation. This resulted in a total level of contribution of £399,500.

A Certificate of Lawful Development ((P/2012/1001/CE) was subsequently granted confirming a material start on site. This keeps the consent alive in perpetuity.

A revised scheme has now been submitted. This proposes 34 dwellings, 7 within the former hotel and the rest from redevelopment of the holiday accommodation in the grounds (3 of which to the back of the Villa are relying on the previous consent as they remain unaltered). The spa/treatment facilities have also been much reduced and are now only contained within the basement of the Villa.

The scheme is acceptable in terms of design, functional aspects and delivery. It will deliver fewer but larger units than previously agreed. There are improvements in design particularly in relation to

the listed building, its setting and there will be assured implementation of the works. It achieves resolution of a site that has become neglected. It will create a quality residential scheme that will add to range of the housing stock available in the area.

34 dwellings will be provided on a brownfield site and this will make a significant contribution to the Council's 5 year housing land supply.

An IVA has been submitted due to concerns about viability in relation to Affordable Housing and Community Infrastructure Contributions. This identifies a greater profit margin than demonstrated in connection with the previous scheme (5.4%-8.56% GDV). However, the Gross Development Value still falls well below expected margins to finance a development such as this.

The current offer from the applicant is for a contribution of £68,000 either towards sustainable development contributions or affordable housing. If this were used toward sustainable development matters other than AH, then the £68,000 would represent 'full' contributions in relation to waste, stronger communities lifelong learning and 75% of the greenspace contribution. The sustainable transport contribution is mitigated due to the existing use of the site as was agreed previously.

The benefits arising from the current scheme are that it will result in a reduced number of larger units and the design is in some respects an improvement, particularly in relation the listed building and the blocks that immediately abut it.

The remaining concern, given acceptance of the principle, design, level of parking etc, is the lack of an Affordable Housing contribution.

Negotiations are ongoing in order to see if some additional profit can be derived from the site which would help meet this deficit. Progress will be reported verbally.

Recommendation

Site Visit; Conditional Approval; subject to:

- a) Delivery of an acceptable level of affordable housing contribution
- b) Conclusion of a S106 agreement to secure agreed affordable housing contribution and a level of deferred contributions; any agreed community infrastructure contributions; tying of the various applications together to form an agreed phasing programme and; mechanism to deliver implementation of the schedule of works to restore the listed villa and replace the adjacent mews building.
- c) Conditions as itemised at the end of the report.

Subject to the decision made on application reference P/2013/0372 the decisions on the remainder of the applications could take one of the following routes:

1. In the event that the first application (P/2013/0372) is approved, the remainder are to be considered on their merits and if approved they can then be related through 106 to the principle decision. In the event of approval of P/2013/0372, the decision would need to include a Grampian style condition or 106 clause to prevent implementation without a valid consent and associated delivery for the works to, and adjacent to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891)
2. In the event that the first application (P/2013/0372) is refused, the remainder are again to be considered on their merits. However, given the clear connection between the applications they should either also be refused (on the grounds of piecemeal delivery and/or lack of 106) or if approved, there should be appropriate 106 mechanisms put in place. These mechanisms should ensure that the permissions for works to, and adjacent

to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891) are not implemented in part / in isolation so as to result in a part completed scheme. In addition, if they are approved notwithstanding the refusal of P/2013/0372, then a s106 must ensure that they remain as part of the wider site in terms of 106 obligations on commuted sums and affordable housing.

Statutory Determination Period

There are 4 applications under consideration. The 'major' part of the development P/2013/0372 has passed the 13 week deadline and agreement to a determination after the deadline will be obtained from the applicant.

Site Details

Bishops Court, a former hotel and Grade II listed building stands in a spacious plot with a vehicular access from Lower Warberry Road. It was formerly known as 'Normount' and was built in 1844.

The villa has been subject to a number of alterations and extensions over the years in order to provide additional holiday accommodation in the hotels heyday, which did compromise its architectural integrity.

The site is bound to the north by Middle Warberry Road, to the east by The Warberries Nursing Home and to the west by a block of flats known as 'Sorrento'. The site slopes down from the north to the south. The main villa is grade II listed, as is the neighbouring nursing home; the pavilion at the east of the site is also separately grade II listed as is the entrance gate and piers.

The major part of the garden to the villa, which lies to the east of the site, was previously occupied by two additional terraces of holiday accommodation running east-west across the site and built into the slope. The lower terrace has been partly demolished in recent years. This part of the site is very prominent in views across the valley.

The site is within the Warberries Conservation Area. The Conservation Area Appraisal identifies the main villa as an important building with an unspoilt frontage. The view south from the rear of the villa is identified as important within the conservation area and the front boundary walls are shown as prominent walls. The site is covered by a Tree Preservation Order (1973.12).

Detailed Proposals

There are 4 applications under consideration:

P/2013/0372/MPA: This provides for the demolition of the existing holiday accommodation in the garden area and its replacement by a lower terrace of 9, 3 storey, 3 bed dwellings and a rear terrace of 9, three storey, 4 bed dwellings. Each of the terraces has integral garages and visitor spaces.

P/2013/0400/PA: This comprises amendments to the approved scheme for conversion of the main villa to flats and reduces the number of units from 8 to 7. The ground floor apartments comprise 2 large 3 bed units to avoid undue impact on the existing layout. Of the remaining units, 4 are 2 bed units and 1 is 1 bed. The changes relate principally to the layout and alterations to the rear elevation.

P.2013/0401/LB: Is the listed building application in connection with the above planning application.

P/2013/0891: This relates to the redevelopment of a block of holiday accommodation to the rear of the villa to provide 6 new dwellings (2x 1 bed 3 x 2 bed and 1 x 3 bed)

Summary Of Consultation Responses

English Heritage: Consider that the lower terrace of the garden new build is unduly dominant due to the inclusion of a third storey of accommodation.

Highways: Have no objection based on the previous use of the site as a hotel but would favour widening of the access to Lower Warberry Road.

Arboriculturalist: Considers there is the possibility of harm arising to trees on the eastern boundary of the site from continuing demolition of the lower terrace of holiday accommodation and requests a Method Statement to be submitted to detail how the works will be carried out to minimise possible impacts.

Summary Of Representations

None received.

Relevant Planning History

There is a long history of applications (over 40 in the 1980's – 90's) for various proposals including alterations to entrances, windows, fire exits, additional leisure facilities, outbuildings, dwellings in grounds, additional extensions, bedrooms in roof space, additional parking areas.

Following extensive negotiations, planning permission and listed building consent were granted in June 2009 for the conversion of the former hotel to provide for 8 flats and the construction of 34 flats/dwellings in the grounds to replace the existing terraces of holiday accommodation (P/2008/1623/PA and P/2008/1624/LB)

Subsequently a Certificate of Lawfulness (CLEUD) under reference P/2012/1001 was granted, for the erection of four dwelling houses on the site. This confirms that a material start was made in relation to P/2008/1623 and P/2013/1624 thus preserving the permissions referred to above.

Key Issues/Material Considerations

Background

The former Bishops Court Hotel was one of the larger and more successful of Torbay's hotels outside the defined PHAA's and as such, careful thought was essential in considering a move to residential use. In 2008 this was a key consideration and it was concluded that the existing business had struggled for some considerable time. Furthermore, the amount of investment needed to restore the listed building was unlikely to be generated through a continuation of the hotel use.

There were opportunities to enhance the setting of the listed building and the wider conservation area that would only come about if a residential scheme were allowed and there would be consequent benefits in terms of Affordable Housing and associated community infrastructure contributions.

The 2008 approval included, in addition to 42 residential dwellings, the provision of a health spa, pool and beauty and treatment rooms and it was argued that this would encourage letting for holiday purposes which would to some degree mitigate for the loss of the hotel.

A viability report (IVA) was submitted with the application and this confirmed that the scheme would make a profit equating to 5.4% of GDV (approx £673,000) and the applicant at that time agreed to contribute half of this as an AH contribution. This was significantly less than would be required through strict application of the SPD.

It was agreed to include an 'overage' clause which would recoup AH contributions in the event of the scheme being more profitable than anticipated to a maximum of £1,240,000. The AH manager was at the time satisfied with this, providing that the £63,000 community infrastructure contributions were also allocated towards meeting AH needs. This amounted to a total contribution of £399,500.

The scheme was not carried forward and the site is now in a more dilapidated state than it was in

2008, with demolition on the site part completed and the listed building in need of additional investment.

A revised scheme has now been submitted which reduces the number of units on the site from 42 to 34, there are design changes which are for the most part an improvement, the health spa has been significantly reduced in size and a IVA has been submitted which indicates that the profit now equates to 8.56 GDV. The applicant has indicated that no AH contributions will be made but the community infrastructure contribution has been increased from £63,000 to £68,000.

There are therefore a number of key issues:

1. Use of the site.
2. Design,
3. Viability
4. Impact on trees/functional matters.
5. Phasing and deliverability of key elements of the scheme.

Each will be addressed in turn.

1. Use of the site

The principle of residential use of the site has already been agreed and a CLEUD issued confirming a material start on site, which will keep that application alive in perpetuity.

The 2008 approval included the provision of a large health spa, pool, beauty treatment rooms, snooker/meeting room and library which it was argued would make it attractive to investors who wanted to buy properties to use as holiday lets. It was hoped that this would mitigate for the loss of the tourism offer by creating more of a 'holiday destination' than a straight residential scheme. These facilities have now been significantly scaled back and a small spa and treatment rooms occupy the basement of the villa only. The applicant has confirmed an intention to include a small swimming pool but this is not currently shown on the submitted plans.

However, it is not considered that this can be used to justify a re-evaluation of the principle of residential use in this case. There was no guarantee that it would have had the effect hoped for and there is a CLEUD confirming that the approved residential scheme could be built out.

In addition, since 2008/2009 when the decision was made, the Council has adopted a revised guidance document in relation to PHAA's and holiday uses outside of PHAA's. This provides for a more flexible approach that would again be likely to lead to the acceptance of the principle of residential use in the particular circumstances of this case. As such the principle of residential use is considered acceptable.

2. Design

The scheme has been submitted as 4 separate applications.

The main application is for the 'Garden New Build' P/2013/0372. Sister applications relate to the 'Amendments to the conversion of the villa' (P/2013/0400) and the 'Redevelopment of the mews building to the rear of the villa' (P/2013/0891).

The fourth application P/2013/0401 is the listed building application for the conversion works to the villa.

a) The Garden New Build.

This involves the construction of 2 new terraces, the lower terrace and rear terrace on the line of the former holiday accommodation set within the garden. The lower terrace has now been partly

demolished.

The topography of the site falls from north to south and the intention is for the site to continue to be viewed as a series of subservient terraces in relation to the listed building and for the terraces to be viewed as garden structures 'bedded' in the landscape when seen from across the valley. The buildings are primarily to be stone faced to help this integration with recessive fenestration. This is for the most part successful.

The existing 'lower terrace' is 2 storeys and the 2008 approval was for a terrace of the same height. The new scheme however includes a third 'set back' storey in recessive materials which accommodates a master bedroom. English Heritage have concerns about this, considering it makes the building over dominant in relation to the listed building.

Sections have been submitted which show the relationship of the set back master bedroom storey to the perspective of the listed building and it is considered that the relationship is not unduly dominant.

The lower terrace also encroaches closer to the trees on the eastern boundary of the site and the Arboriculturalist, whilst not raising any fatal objection has requested a Method Statement confirming how works, particularly of demolition, will be carried out without harming the tree. This should be supplied before permission is granted.

The rear terrace is three storeys which is similar to the approved scheme, is stone faced facing south and occupies a similar footprint. It sits below the level of the rear boundary wall facing Middle Warberry Road and is set further forwards from the rear boundary than the previous approval.

b) Amendments to Conversion of Villa

This departs from the 2008 approval only inasmuch as the internal layout is revised slightly to provide fewer units (from 8 to 7) the lift is relocated and the rear elevation is amended. The changes are largely beneficial particularly in relation to the layout and a principal ground floor reception room that was divided up in the 2008 approval is now retained as originally laid out.

The main reception room in the 2008 approval was to be used as a communal snooker/meeting room and this is now to be used as living space.

Demolition of an extension from the existing coach houses which extends to the villa will further free up space around the listed building improving its setting.

c) Redevelopment of Mews Building to Rear of Villa

The application for this part of the site was included later on in the consideration of the overall scheme. As it stands, the mews building to the rear of the villa is poor quality, extends too close to the listed building and thus adversely affects its setting. It was considered necessary for the impact of this to be mitigated. The '2008' scheme involved adaptation of the existing structure, maintaining the same footprint and whilst its appearance was improved, it still suffered from being too close to the listed building itself.

The revised approach involves redevelopment to provide a building with a reduced footprint, which is set back further from the main villa and forms a much happier relationship with the listed building. The elevations of the building and its overall design also follow the theme for the terraced blocks to the east and as such the mews building will read sympathetically as a garden building within the grounds of the Listed villa.

3. Viability

The 2008 approval for 42 units and health/beauty spa was accompanied by an IVA as the applicant did not consider there was sufficient profit to deliver the full AH and the community infrastructure contribution which should have been delivered on the site.

According to the SPD 'Planning Contributions and Affordable Housing' 30% of the units should have been allocated for onsite affordable housing. It was agreed that an offsite contribution would be acceptable in this instance due to the inclusion of the fee paying leisure facilities on site. A full on site AH contribution would have been in the order of £3,000,000 and following negotiations a figure of £336,500 was agreed, which is about 10% of the policy requirement along with an overage clause that would recoup AH contributions to a maximum of £1,240,000 if the market improved and higher sales values were achieved than anticipated. The Community Infrastructure Contributions totalled £63,000 which was compliant with the SPD, but did not include sustainable transport contributions due to the mitigation applied to the previous use.

A profit margin of between 15-20% is normally expected to achieve a viable scheme. An IVA has been supplied in relation to this application as the applicant considers the scheme to be unviable if it was to fully meet the requirements of the SPD. A fully compliant scheme, it has been estimated, would produce a negative developer's return of 0.23%. A scheme that delivered 0% Affordable Housing but delivered full community infrastructure contributions of £170,470 would achieve a profit margin of 8.56% GDV, which is still below the 15-20% margin that is normally deemed necessary. It is, however, in excess of the 5.4% GDV anticipated in relation to the 2008 approval.

The applicant has recently agreed to introduce an overage or deferred contributions clause similar to the one previously agreed. However, the applicant remains clear that the scheme cannot deliver an AH contribution despite the apparent increase in profitability. There is a slight increase in the community infrastructure contribution from £63,000 to 68,000. This figure reflects the mitigation applied for sustainable transport contributions due to the existing use of the site and represents 75% of the Greenspace contribution. The SDLR contribution, which will be deducted from the overall figure, will amount to £29,000, leaving very little to meet the impacts of the scheme on the local area.

The TDA have evaluated the IVA and a draft response indicates that the figures supplied are largely acceptable and confirm the low profit margin in relation to the site. More detail has been requested into sales values, costs schedule and site value, which may affect the profit margin that can be achieved on the site. The recent agreement to deferred contributions will assist in delivering some of the excess profit for AH if the market for these units is better than expected. A Member Briefing was held on the 22nd October to apprise Members of this issue.

The key issue is the lack of an upfront AH contribution and various options are being considered to see if the profit margin can be increased which would release some funds to increase the AH contribution. This involves the further evaluation of the key costs used in the IVA and feedback on this will have to be provided verbally at the meeting.

The removal of the spa and leisure facilities and diverting the money saved towards AH has been discussed with the applicant. The 'acceptable' profit margin of 8.56% included £170,470 to meet the full community infrastructure contribution and it has been suggested that the difference between this sum and the £68,000 offered, £102,470, should be put towards meeting AH requirements. This would amount to about 5% of the 'normal' policy requirement.

In response to this, the applicant has stated that there is a premium, reflected in the submitted sales values for the availability of spa facilities on site and due to this added value he would not wish to remove them from the scheme.

At the time of writing, a response is awaited on the point of diverting the 'surplus' community infrastructure money to AH provision. Progress will be reported verbally.

4. Impact on trees, landscaping and other functional matters.

Whilst the new lower terrace does extend closer to the trees than the previous approval, there is a concrete retaining wall, which is to be retained. This should ensure that the roots are not compromised by the proposed development. However due to the proximity of the new building protection measures are critical and a condition is needed to ensure that the wall is retained in place. A method statement should be submitted prior to a decision being issued to ensure that the works can take place without harm arising.

It is proposed to reinstate the Yew Tree walk which will form a landscape link between the villa and the listed garden pavilion and form an attractive centrepiece to the development. It would be appropriate to request a Woodland Management Plan to be included in resolution of the landscape proposals for the site. This can be dealt with by condition.

In respect of parking, there is an allocation of 2 spaces per unit for the larger units and 1 space per unit for the 2 one bed units. The terraces have garage parking and an allocated space and the villa and mews buildings have a landscaped parking area at some remove from the buildings.

Highways did suggest that there might be some merit in widening the access onto Lower Warberry Road but this is not desirable as the structures are listed in their own right and are a key feature in the street scene. In view of the previous use of the site, there is no requirement to improve the access or improve visibility.

5. Phasing and deliverability of key elements of the scheme.

It is vital that the listed building is restored in line with the approved plans. The agreed schedule of works and the demolition of the mews building and its replacement with a more discrete block are vital parts of the development. It is the applicant's intention to sell off the eastern portion of the site containing the 2 new terraces and retain the listed building and the mews building in his ownership.

The S106 agreement will need to include provisions for linking the development of the new terrace buildings with key stages in the refurbishment of the buildings retained in the applicant's ownership. This could be done via triggers on occupation, a bond or the use of a joint bank account. Details in relation to this have yet to be resolved.

There may be potential to incentivise the early delivery of the works to the Listed Building and the adjacent mews houses. Discussions are ongoing in this regard.

It is also important to include delivery of the spa facilities but this can be done by condition.

Otherwise the s106 needs to include the mechanism for the deferred contributions and whatever level of contribution is to be agreed.

Conclusions

The scheme is acceptable in terms of design, functional aspects and delivery. It will deliver fewer but larger units than previously agreed. There are improvements in design particularly in relation to the listed building, its setting and there will be assured implementation of the works. It achieves resolution of a site that has become neglected. It will create a quality residential scheme that will add to range of the housing stock available in the area. 34 dwellings will be provided within the built up area on a brownfield site and this will make a significant contribution to the Council's 5 year housing land supply.

The IVA and its scrutiny by the TDA reveal only limited options for increasing the profit margin. Investigations are continuing into site value, sales value and costs to see if there may be the opportunity of deriving more value from the site. The lack of an AH contribution is regretted and has to be weighed in the balance.

Nonetheless, it is important that the adopted policy in relation to AH is met and it is hoped that

some additional value can be derived from the site that will allow an acceptable level of contribution to be made. However, at the time of writing this matter is still under discussion and progress on this will need to be reported verbally.

Recommendation:

Site Visit; Conditional Approval of application reference P/2013/0372; subject to:

- a) Delivery of an acceptable level of affordable housing contribution
- b) Conclusion of a S106 agreement to secure agreed affordable housing contribution and a level of deferred contributions; any agreed community infrastructure contributions; tying of the various applications together to form an agreed phasing programme and; mechanism to deliver implementation of the schedule of works to restore the listed villa and replace the adjacent mews building.
- c) Conditions as itemised at the end of the report.

Subject to the decision made on application reference P/2013/0372 the decisions on the remainder of the applications could take one of the following routes:

3. In the event that the first application (P/2013/0372) is approved, the remainder are to be considered on their merits and if approved they can then be related through 106 to the principle decision. In the event of approval of P/2013/0372, the decision would need to include a Grampian style condition or 106 clause to prevent implementation without a valid consent and associated delivery for the works to, and adjacent to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891)
4. In the event that the first application (P/2013/0372) is refused, the remainder are again to be considered on their merits. However, given the clear connection between the applications they should either also be refused (on the grounds of piecemeal delivery and/or lack of 106) or if approved, there should be appropriate 106 mechanisms put in place. These mechanisms should ensure that the permissions for works to, and adjacent to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891) are not implemented in part / in isolation so as to result in a part completed scheme. In addition, if they are approved notwithstanding the refusal of P/2013/0372, then a s106 must ensure that they remain as part of the wider site in terms of 106 obligations on commuted sums and affordable housing.

Conditions:

1. Large scale detail in relation to new build and listed building.
2. Samples of materials /sample stone panel
3. Phasing Plan/implementation of works to listed building in line with schedule of works
4. Landscape detail and submission of WMP.
5. Implementation of car parking, cycle parking etc
6. Tree protection measures
7. Delivery of spa facilities to an agreed time table
8. Detail of internal works to listed building in terms of services/thermal/sound insulation etc.
9. Audit of internal features to be protected.
10. Details of all boundaries/fences.
11. Reinstatement/refurbishment of pavilion building/gates piers.

Relevant Policies

- HS - Housing Strategy
- H2 - New housing on unidentified sites
- H6 - Affordable housing on unidentified sites
- H9 - Layout, and design and community aspects
- H10 - Housing densities

TUS - Tourism strategy
TU7 - Change of use or redevelopment of new ho
CF6 - Community infrastructure contributions
LS - Landscape strategy
L8 - Protection of hedgerows, woodlands and o
L9 - Planting and retention of trees
BES - Built environment strategy
BE1 - Design of new development
BE5 - Policy in conservation areas
BE6 - Development affecting listed buildings
TS - Land use transportation strategy
T1 - Development accessibility
T3 - Cycling
T25 - Car parking in new development
T26 - Access from development onto the highway