

P/2010/1302/PA
Roundham With Hyde Ward
Flat 4 Vista Apartments, 17 Alta Vista Road, Paignton
Change of use from a holiday home to a residential dwelling

Site Details

Block of holiday flats on the southern side of Alta Vista Road with good views at the rear across Youngs Park and Goodrington Sands. The property was formerly a hotel (The Ebor Towers Hotel) and was converted to Holiday Flats in 2004.

Relevant Planning History

- P/2003/1605 Conversion of hotel to form 12 2-bed and 1 single bed apartments. Approved 18 November 2003
- P/2005/0245 Change of use from holiday flat to residential use at flat 1 - refused 2 June 2005 for the following reason "The site lies within a Principal Holiday Accommodation Area as defined by the Torbay Local Plan 1995-2011 (as adopted in April 2004). The proposal to provide one residential unit in lieu of one of the approved holiday accommodation units is therefore contrary to Policy TU6 of the adopted Torbay Local Plan in as much as the change of use would be to the detriment of the character and function of the principal holiday accommodation area and the applicant has failed to demonstrate that the proposed use would meet any of the criteria listed as being acceptable exceptions to the policy."
- P/2005/1641 Alterations and extensions in roof space to form additional holiday unit. Approved 15 December 2005.
- P/2010/1245 Change of use from holiday to residential at unit 5. Approved 13 April 2011.
- P/2010/1364 Change of use from holiday to residential at unit 15. Approved 13 April 2011.

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

- 1 at Belvedere, Marine Drive,
- 3 at Sunhill Apartments, Alta Vista Road (next door to this application site),
- 1 at Carlton Manor, Roundham Road,
- 1 application (10 units) at Goodrington Lodge, Alta Vista Road.

Relevant Policies

Saved Adopted Torbay Local Plan, relevant policies

- TU6 (PHAA)
- CF6 (Community Infrastructure Contributions)
- CF7 (Education contributions)

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.

Proposals

Permission is sought for a change of use at flat 4 to allow residential occupation in what is currently a holiday flat controlled by condition on the original approval. The conditions states that the 'the occupation of the holiday units hereby approved shall be restricted to bona fide holiday makers for individual periods not exceeding 4 weeks in total in any consecutive period of 13 weeks. A register of holiday makers shall be kept and made available to inspection by an authorised Officer of the Council at all reasonable times. Reason: The site is situated within a Principal Holiday Accommodation Area and in order to preserve the character of the area it is important that the units are retained strictly for

holiday letting purposes.' Allowing the change of use would allow residential occupation but by virtue of the Use Classes Order would also allow holiday use (as a permitted change).

Consultations

None.

Representations

None received.

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 TU6.12 of the Saved Adopted Torbay Local Plan. The purpose of this policy is 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.

Recent changes in holiday trends has 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 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 afforded 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.

Following the considerations made in respect of the Belvedere complex, 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 a paper is being prepared for presentation to Full Council on July 13th. The recommendation will be that the revised guidance on the interpretation of policy TU6 (March 2010) be withdrawn pending a review of PHAAs as part of the emerging Local Development Framework core strategy.

Therefore the tests in Policy TU6 (a) - (d) should be the starting point when determining applications for proposals affecting PHAAs. This policy states clearly that applications involving the loss of holiday accommodation within an identified PHAA 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 bed space 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 Vista Apartments holiday properties were specifically formed by conversion of the Ebor Towers

Hotel and they have been converted recently to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Vista Apartments would meet all of the above referenced tests.

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 sought retrospectively in relation to live applications such as this one. This current application was validated before 24th March and so no Community Infrastructure Contribution would be due for this proposal.

It is not clear what the exact nature of the parking provision is for the Vista Apartments as a whole, but Members will be aware that any approval to allow residential occupation should ensure that two off-street parking spaces are provided for each residential unit. The applicant has indicated that flat 4 does have two such spaces, and therefore there would not be any parking reason for refusal, subject to seeing the two spaces clearly indicated on a plan.

Sustainability - The proposal is a sustainable one in as much as it creates residential accommodation on an existing brownfield site.

Crime and Disorder - Not an issue in this instance as the units are already in existence and the requirement for crime prevention will not alter.

Disability Issues - This will remain the same as existing, and so there are no new issues arising from these current proposals.

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. This is consistent with other decisions relating to holiday properties within PHAAs, notwithstanding the fact that some have been allowed under a different interpretation of the policy, including three flats within this complex.

On balance, it is considered that the LPA should not continue with decisions that are now thought to be a wrong interpretation of the policy, even though that might lead to inconsistencies in the decision making process. It is now clear that proposals which fail to meet the tests of TU6 should be refused on policy grounds. The Vista Apartments holiday properties were specifically formed by conversion of the Ebor Towers Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Vista Apartments would meet all of the above referenced tests.

Recommendation

The application should be refused on the basis of failing to meet all of the tests in policy TU6.

Condition(s):

01. The proposal to change the use of flat 4 Vista Apartments from a holiday home to a residential dwelling 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 Vista Apartments at 17 Alta Vista Road, is a purposely converted block of holiday flats within the Roundham Road West

Paignton PHAA as defined by policy TU6.12. 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) to (d) set out in policy TU6, and there are not any other change in circumstance that would justify a breach of the adopted policy.