

**P/2011/0021/VC**

**Roundham With Hyde Ward**

**Goodrington Lodge, 23 Alta Vista Road, Paignton**

**Removal of condition 1 on application P/2008/1663/PA; condition 2 on application P/2008/1263/PA; condition 3 on application P/2008/0961/PA and condition 3 on application P/2008/0217/PA to allow permanent residential use along with holiday accommodation**

### **Site Details**

Former hotel, now converted into a block of holiday flats at the junction of Alta Vista Road and Braeside Road with good views across Youngs Park and Goodrington Sands.

### **Relevant Planning History**

P/2008/0217/PA	Alterations and conversion from hotel to 6 holiday flats, approved 14 April 2008.
P/2008/0961/PA	Change of use of rear part of building to provide 3 holiday flats, approved 14 August 2008.
P/2008/1263/PA	Alterations and change of use of front part of building to form 5 holiday flats, approved 7 November 2008.
P/2008/1663/PA	Extension and amended layout to flat 5, approved 5 February 2009.

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,
- 1 at Carlton Manor, Roundham Road,
- 1 at Vista Apartments, Alta Vista Road,

### **Relevant Policies**

*Saved Adopted Torbay Local Plan*, relevant policies

- TU6 (Principle Holiday Accommodation Areas - PHAA)
- CF6 (Community Infrastructure Contributions)
- CF7 (Education contributions)
- T25 (Parking standards)

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 June 2010.

### **Proposals**

Permission has been sought to vary the original planning conditions that restricted occupancy. The conditions state that the accommodation approved shall be used for the purpose of holiday accommodation only and not as a UK main residence, with a register to be kept of all occupiers and their main addresses. The reason given for the conditions was to maintain the holiday character of the area, which is designated as a PHAA. Lifting the relevant conditions would effectively allow permanent residential accommodation, but by virtue of the Use Classes Order would also have allowed holiday use (as a permitted change) on those units that wished to do so. The application sought the lifting of this condition for each of the flats within this complex.

However, because of a change in emphasis in the interpretation of the Council's policy on PHAAs, applications such as this one were held in abeyance pending a review of the PHAA policy and the

revised guidance of March 2010. In the meantime, the applicant in this case has stated his intentions to appeal against non-determination, as is his right to do so after the prescribed 8 week time period for determination.

Once it has been confirmed that an appeal against non-determination has been lodged, this has the effect of removing the right of the LPA to formally determine the application, as this decision would now be taken by the Planning Inspectorate. However, as part of the appeal process, the Council will have to make clear what its resolution would have been had it been in a position to determine the application. Therefore Members are requested to consider this application as if it were to be determined.

### **Consultations**

None.

### **Representations**

None received .

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

#### *Principle/policy*

The property is a medium sized block of holiday flats situated within the *Roundham Road West, Paignton* 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. As a consequence of the findings of the Tourism Strategy, the Council adopted, in March 2010, a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Saved Adopted Local Plan, it is capable of constituting a material consideration.

There is a potential lack of clarity of the revised Guidance's status, with regard to how much weight it should be accorded 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. Therefore the tests in Policy TU6 (a) - (d) should be a starting point when determining applications for proposals affecting PHAAs. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. 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 bedspace 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 Goodrington Lodge holiday properties were specifically formed by conversion of the previous hotel. The holiday flats are modern, purpose built and of high quality, they do not lack a basic range of

facilities and do contribute positively to the PHAA. As such, it is not considered that Goodrington Lodge would meet the above referenced criteria. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use.

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 review as part of the emerging Local Development Framework core strategy. Pending the evolution of revised policy as part of the LDF Core Strategy, it will be recommended to Full Council that it relies upon policy TU6 of the Saved Adopted Local Plan for the determination of applications in PHAA's.

As such, notwithstanding the material consideration of the revised guidance on this part of the PHAA, which designates this as a green area, it is considered that the site makes a positive contribution to the holiday character of the PHAA and Officers consider that its loss should be resisted in accordance with policy TU6.

#### *Planning obligations*

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. The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March of this year (2011). The amount of the required 'developer contribution' for the current application should therefore be evaluated in line with this adopted revision to the policy.

According to this document, contributions due for residential proposals are now based on floorspace to be created. The document splits contributions up into 5 categories according to size. On this basis, the contributions due for the current proposal would work out as follows. The owner's accommodation is given as already being residential and so has not been included in the calculations.

The smallest flat within the Goodrington Lodge complex is 40 sq. m. which is technically below the minimum standards suggested by the English Partnerships (now part of the Homes and Community Agency) in their document 'Quality Standards: Delivering quality places', revised edition published in November 2007. They suggest a minimum internal floor area of 51 sq. m. for a one bedroom/2 person flat. This could indicate that this particular flat would be too small to justify residential accommodation.

It should also be noted that Torbay has an over-supply of one-bed flats and therefore what is required in the Torbay housing market is two-bed flats, for which the suggested internal floor area starts at 66 sq. m. This is reflected in the guidance given in the Adopted Supplementary Planning Document: LDD6 ('Planning contributions and affordable housing: priorities and delivery') which was adopted in April 2008 and forms part of the Torbay Local Development Framework (2005 - 2026). However it would make little sense to keep only one of the units as a holiday flat and therefore it is included in the calculations for the Planning Obligation as a category 1 unit (the smallest recognised unit).

#### Category 1 (45 - 54 Sq. M.)

Municipal waste and recycling	£ 50
Sustainable transportation	£630
Education (primary only)	£ 0
Lifelong learning	£160
Green space and recreation	£275

**TOTAL** **£1115 x 2 unit = £2230**

Category 2 (55 - 74 Sq. M.)	
Municipal waste and recycling	£ 50
Sustainable transportation	£860
Education (primary only)	£410
Lifelong learning	£220
Green space and recreation	£560
<b>TOTAL</b>	<b>£2100 x 2 units = £4200</b>

Category 3 (75 - 94 Sq. M.)	
Municipal waste and recycling	£ 50
Sustainable transportation	£1175
Education (primary only)	£ 830
Lifelong learning	£ 300
Green space and recreation	£1025
<b>TOTAL</b>	<b>£3380 x 3 units = £10140</b>

Category 4 (95 - 119 Sq. M.)	
Municipal waste and recycling	£ 50
Sustainable transportation	£1355
Education (primary only)	£1240
Lifelong learning	£ 410
Green space and recreation	£1185
<b>TOTAL</b>	<b>£ 4240 x 2 units = £8480</b>

This gives a total contribution due of (£ 2230 + £4200 + £10140 + £8480) = £25,050.

The applicant would need to be asked to confirm that they would be prepared to enter into an agreement to make and sign this Planning Obligation. Members should be aware that failure to agree the Planning Obligation should be considered as being contrary to policies CF6 and CF7 (Community Infrastructure and Educational Contributions) of the Saved Adopted Torbay Local Plan. As this consideration seeks a resolution from Members as to what they would have decided had they been in a position to do so, it is logical to add the lack of an agreed, signed, sealed and delivered Planning Obligation as one of the recommended reasons for refusal.

#### *Parking*

The plans approved show the accommodation at the property to comprise 1 cottage, 8 apartments and owners accommodation. As holiday properties, plus owners accommodation the site should provide parking for 10 or 11 off street spaces. Although the site is not clearly designated, the agent states that the site could take 10 or 12 cars off street. However, any proposal for residential use should be accompanied with provision for 15/16 off street spaces. This has not been included as part of the proposal and indeed could not be accommodated on site. Therefore it would be appropriate for Members to consider including lack of parking provision as a reason in any decision to refuse the proposal.

**Sustainability** - The proposal is a sustainable one in as much as it creates residential accommodation on an existing brownfield site. However, the provision of additional housing in a sustainable location does not in this case override the policy considerations in relation to the protection of the Principle Holiday Accommodation Area.

**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. The proposal does not meet the tests of TU6, CF6, CF7 nor of T25 and so the application should be refused on policy, lack of a planning obligation and parking grounds. This is consistent with other decisions relating to holiday properties within PHAA's.

### **Recommendation**

It is recommended that Members agree that, had they been in a position to determine this proposal, they would have resolved to refuse the application. The recommended reasons for this decision would be as follows.

### **Condition(s):**

01. The Council considers that had it been in a position to determine this proposal it would have resolved to refuse the application. There would have been three reasons for refusal:-

The proposal to remove conditions on various planning consents so as to allow residential use of the property, 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. Goodrington Lodge has recently been purposely converted into holiday flats from a hotel and is situated within a designated 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) - (d) set out in policy TU6, and there are not any other change in circumstance that would justify a breach of the adopted policy.

02. The applicant has failed to provide or legally agree to, any contributions in order to offset the costs involved in supporting essential community facilities such as transport services, education facilities, the provision of open space and to maintain infrastructure stemming directly from development that would arise to the Local Authority and the tax payer as a result of this proposal. This makes the proposal contrary to policies CF6 and CF7 of the Saved Adopted Torbay Local Plan (1995 - 2011) and to the subsequent adopted policy position of the Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery', adopted in May 2008) and the more recent update the 'Planning contributions and affordable housing supplementary document, update 3', (adopted by the Council in March 2011.)

03. The proposal to remove conditions on various planning consents so as to allow residential use of the property, is contrary to policy TU25 of the Saved Adopted Torbay Local Plan which clearly stipulates that residential flats should have 1 off street parking space per unit plus 1 space per 2 units for visitors (1.5 spaces per flat). Goodrington Lodge has recently been purposely converted into holiday flats and is provided with 1 space per unit only in accordance with the adopted standards for holiday flats. To allow residential use of the flats without any extra provision of off-street parking would therefore be contrary to the adopted policy and be likely to lead to parking on the public highway in an area which only has restricted on-street parking and can get very busy and congested particularly during the summer season. This would be likely to add to congestion and problems with the free flow of traffic, and the accumulative impact of all of the flats within the Goodrington Lodge Complex adding

to this would have an unacceptable impact on the local highway network.