

**P/2011/0363/VC**

**Preston Ward**

**Julie Court, 5 Colin Road, Paignton**

**Removal of condition 2 on application P/1987/1109; condition 1 on application P/1996/1527 and condition 1 on application P/2002/1896 to allow the holiday flats and owners accommodation to be occupied without limitation**

### **Site Details**

The site, Julie Court, 5 Colin Road is a detached unit currently in use as holiday apartments. It is located adjacent to the Embassy Tavern and off of Marine Drive.

### **Relevant Planning History**

P/2010/1174 The Chalet, 5 Colin Road; Certificate of lawfulness for an existing use as a dwelling house (Class C3)

P/2002/1896 Variation off condition 2 attached to 96/1527/PA in order to allow continued use by a new owner; Approved

P/1996/1527 Variation of condition 1 of Consent 96/0262/PA; use of the flats for non-holiday purposes between the period of November-Easter. Approved

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

3 at Sunhill Apartments, Alta Vista Road,

1 at Carlton Manor, Roundham Road,

1 at Vista Apartments, Alta Vista Road,

1 application (10 units) at Goodrington Lodge, Alta Vista Road.

### **Relevant Policies**

*Saved Adopted Torbay Local Plan*, relevant policy

H4 Conversion and Sub-division into flats

TU6 PHAA, and the revised guidance on PHAA's adopted by the Council in March of this year (Report no. 73/2010).

CF6 Community infrastructure contributions

CF7 Education contribution

LDD6 Planning contributions and affordable housing adopted April 2008, and the subsequent update (mitigation and clarification) paper of July 2009.

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 is sought to vary the original planning conditions that restricted occupancy. Condition 2 of permission 1987/1109 states that occupancy is restricted to the period between 15 March and 15 January in any twelve month period; Condition 1 of application P/1996/527 limited winter use of holiday flats for non holiday purposed for the period of November to Easter & condition 1 of application P/2002/1896 which gave a personal permission for the use of the owners accommodation.

These conditions relate to 10 units overall, 9 of which would be turned from holiday to residential all of which are under the same ownership.

### **Consultations**

*Carolyn Custerson; Chief Executive Residents & Visitor Services*: No objection

## **Representations**

None received.

## **Key Issues/Material Considerations**

The starting point for consideration is the fact that the property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.9 of the Saved Adopted Torbay Local Plan. As originally approved by the Council, the purpose of this policy was 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. This usually resulted in refusal to grant planning permissions to change uses from holiday accommodation to permanent residential occupation.

However because of recent changes in holiday trends and more importantly the recent severe economic problems, the policy has been examined again and re-interpreted to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. Last year, the Council adopted a revised interpretation of the PHAA policy. Prior to its adoption, this Revised Guidance was the subject of public and stakeholder consultation. Although the Revised Guidance on PHAA's does not form part of the LDF or Local Plan, it is capable of constituting a material consideration which can be weighed against others when determining whether consent may be granted.

Following consideration of 7 holiday apartments within the Belvedere complex off Marine Drive at April's meeting of the Development Management Committee, it is reiterated that applications involving the loss of holiday accommodation first need to be tested against policy TU6. 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 premises, on the whole, have a basic range of facilities, however some units are more basic than others, there is the potential for improvement by means of reducing the existing density of the units to provide fewer, but higher quality units. The proposal to remove conditions of the premises to in affect make 10 residential units (plus 1 in use as owners accommodation) would result in some units being of a substandard size (30m<sup>2</sup>) which would not provide a quality living environment. This would be contrary to Policy H4 of the saved adopted Torbay Local Plan (1995-2011).

It is deemed that the premises does not have restricted bedspace capacity as there are 10 units at present plus 1 unit of owners accommodation.

There is a mix of holiday and residential uses in Colin Road and therefore there is not an overall strong holiday character in the immediate area. The principle of converting this property from holiday to residential is considered to be acceptable and supporting evidence does suggest that the existing use is not viable. However, the present proposal to form 10 units plus owners accommodation would not provide sufficient quality units with suitable amenity space.

It is considered that a change from holiday to residential is likely to impact on the holiday character and atmosphere to a certain extent. However this is not deemed to be an overriding issue in this instance.

Suitable on site parking is available to accommodate residential units and is located to the rear of the

premises and accessed via a driveway to the side elevation.

Revised Guidance on the interpretation of planning policy in Principal Holiday Accommodation Areas (PHAAs) was at the time of writing this report a material planning consideration. However on 13th July Full Council will be presented a report recommending that the “Revised Guidance on the Interpretation of Policy TU6 (Principal Holiday Accommodation Areas)” (March 2010) be withdrawn pending review as part of the emerging Local Development Framework (LDF) Core Strategy.

The report will also recommend to full council that, pending the evolution of revised policy as part of the LDF Core Strategy, the Council relies on Policy TU6 of the Saved Adopted Torbay Local Plan for the determination of applications in PHAAs. The outcome of this meeting is as yet unknown and therefore this report considers the Revised Guidance.

The Revised Guidance sets out a traffic light based approach whereby PHAAs were colour coded into 3 areas:

- Red “Core” areas which are in key seafront locations. All holiday accommodation should remain protected for hotel/ tourism/ leisure use, unless shown to be not viable. (In addition key hotels such as the Imperial and Palace Hotel outside PHAAs are protected by Policy TU7 of the Torbay Local Plan).
- Amber areas: where larger hotels and the best medium sized ones should be retained.
- Green Areas: Where only 50+ bed hotels will be protected as holiday accommodation.

This site sits within Preston seafront PHAA which was identified as a green area. Para 3.17 of the Revised Guidance goes on to state that in these areas, the change of use of serviced accommodation with fewer than 50 letting bedrooms or holiday apartments is likely to be considered to meet the criteria in Policy TU6, so long as they don't offer particular facilities of importance to the resort. In other words there is a presumption that residential use will be acceptable.

As set out earlier in this report it is the officers view that the proposal does not fully comply with all of the requirements set out in TU6 nor policy H4 of the saved adopted Torbay Local Plan (1995-2011) due to the small size of some of the units.

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.

In line with Government advice, sound economic principles and principles of sustainable development, the Council has decided that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. To this aim, the Council has now adopted policy in line with Central Government legislation and advice from the Government Office for the South West which provides justification for this approach and levels of payments that would be sought in relation to specific developments. This is detailed in Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery').

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

**Crime and Disorder** – No issues

**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 specifically in the size of some of the units. On balance, it is considered that the L.P.A. should not continue with decisions that could undermine Torbay's viability as a resort in conflict with the policies of the saved adopted Torbay Local Plan (1995-2011).

**Recommendation**

Refusal

**Condition(s):**

01. The proposal to remove conditions to the ten holiday apartments (plus one unit of owners accommodation) to affectively change their use to residential would not comply with the requirements of policy TU6 & policy H4 of the saved adopted Torbay Local Plan (1995-2011). Specifically the proposal is unacceptable due to the small size of the units which would result in a poor quality living environment.