

**Application Number**

P/2018/0493

**Site Address**Maycliffe Hotel  
St Lukes Road North  
Torquay  
TQ2 5PD**Case Officer**

Gary Crawford

**Ward**

Tormohun

**Description**

Change of use from C1 (hotels) to Sui Generis (Student Residence) (retrospective) (proposal / description amended 24 May 2018)

**Executive Summary/Key Outcomes**

This planning application seeks retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use). The property is currently in use as student accommodation by students from Education First International Academy (EF). A separate application (P/2018/0492) has been submitted by the same applicant seeking to regularise the use of the Brampton Court Hotel. As the Brampton Court Hotel and Maycliffe Hotel share kitchen, laundry and communal facilities, it is considered necessary that both applications should be considered at the same time.

Whilst the proposed use provides economic benefits to the local economy, a number of concerns have been raised, particularly with regards to the impact of the development on local amenity. It is recommended that subject to the submission of a robust management plan, a planning permission should be granted for a temporary two year period specifically to EF.

**Recommendation**

Conditional approval (conditions at end of report).

**Reason for Referral to Development Management Committee**

Due to the number of objections received, the application has been referred to the Development Management Committee for determination.

**Statutory Determination Period**

The determination date was 10th July 2018. The application has exceeded the determination date to allow the submission of additional information.

**Site Details**

The site is located on the corner of Cary Road, St Lukes Road North and St Lukes Park, and comprises a large, much extended, Victorian villa which was formerly in use as a hotel and is situated in the Belgravia Conservation Area. The property features a large open area of hardstanding on the Cary Road frontage to provide parking for 9 vehicles and a small patio area. The application site is located within a Community Investment Area.

The character of the surrounding area is of residential houses and apartments, and guest houses. The neighbouring property, the Brampton Court Hotel, is also currently in use as student accommodation and a separate application (P/2018/0492) has been submitted seeking to regularise the use of this building. The two hotels share communal facilities, such as a kitchen and laundry area. The nearest residential properties are Waldon Hall, Walliscote and Chase Court on the opposite side of St Lukes Park, approximately 7.5m away.

### **Detailed Proposals**

The application seeks retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use). Both the host property and the neighbouring property are currently in use as student accommodation by students from Education First International Academy (EF), which is based in Castle Road, Torquay. EF Academy is a registered independent boarding school regulated by the Department for Education, accredited by the ISA (Independent Schools Association) and inspected by the ISI (Independent Schools Inspectorate). The 2014 Ofsted report for EF International Academy states that “the academy provides exclusively for international students who wish to gain the International GCSE, A level and International Baccalaureate accreditation”.

The Maycliffe Hotel consists of 26 student bedrooms, communal facilities, kitchen dining room, house parent accommodation and owners' accommodation. The applicants have stated that a maximum of 46 international students arrive at the residence in September and stay until June. The Planning Statement specifies that between 20 June and 27 July a new intake of summer students from EF Language Travel stay at the residence. The Planning Statement also notes that students are accommodated in single rooms, or share a larger room with one or two other students.

### **Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

#### Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

## Material Considerations

- Emerging Torquay Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

## **Summary Of Consultation Responses**

### **Senior Environmental Health Officer:**

*From our files, no complaints have been received about either the Maycliffe Hotel or the Brampton Court Hotels in their current use.*

*Whilst I can understand resident's concerns about the potential noise created by a student residence, the proposed use is not intrinsically noisy. If run in a responsible fashion, I see no reason for anyone to be unreasonably affected by noise. If issues with noise from students were to arise, effective disciplinary procedures against offending students would no doubt be sufficient to resolve neighbour's concerns. Should the issues not be dealt with and the matter not be resolved in a timely fashion, the Council can utilise its powers in the Statutory Nuisance regime to resolve the situation.*

*However, in the light of local concerns, and in order to preserve residential amenity, I recommend a condition be placed on the consent requiring the development of a noise management plan and that the details of the plan are to be approved by the local planning authority. I would also recommend that a review mechanism be put in place so that should it be required the plan can be modified in consultation with the Council.*

*The noise management plan should include:-*

- *A code of conduct for students whilst on site*
- *A proposed scheme of monitoring*
- *A scheme of sanctions should students fail to comply with the code.*
- *A reporting scheme so residents can express their concerns*
- *A review mechanism to address emerging concerns.*

### **Conservation Officer:**

*The Conservation Officer has requested improvements to the building in order to comply with relevant legislation and Policy TO2 (Change of use of tourism*

accommodation and facilities) of the Torbay Local Plan. It is requested that improvements to the scheme are made and as a minimum the following:

- Traditional window design;
- Sympathetic signage or removal of the signage; and
- An improved landscaping scheme.

### **The Police Designing out Crime Officer:**

1. It is noted in the planning statement how the premises and students are currently supervised and managed but there should be a separate and detailed management (and maintenance) plan drawn up and agreed upon, which should also include the external areas. Residents of multi occupancy premises generally only have an interest and regard for their own private space (i.e. their room), as such other areas can become problematic due to a lack of supervision, ownership and responsibility. This can easily escalate creating conflict and unacceptable behaviour and noise and nuisance issues for nearby residents, therefore the premises must be robustly managed and maintained on a regular basis. This will also help in identifying any problem areas which can then be dealt with at an early stage.

2. The main shared entrance door to the building should be of a design that has been tested and certificated to an acceptable security standard e.g. PAS 24 2016. The door should have access control and a visitor door entry system to prevent unauthorised access. The door should be self-closing and locking to prevent from being left open.

3. Other external shared access doors must also be self-closing and locking with a thumb turn lock on the inside. This will ensure the door is secure at all times and egress can be gained in the event of an emergency without the need for a key

4. All ground floor and easily accessible windows should also be to a design that has been tested to an acceptable security standard such as PAS 24 2016. Ground floor and easily accessible windows should have restrictors fitted.

5. Each student's private room must have a 'fit for purpose' secure door and locking system - ideally it should be tested and certificated to PAS 24 2016 to provide a safe and secure sanctuary for the student.

6. Ideally there should be a house parent bedroom on each floor rather than all be sited together in one area of the building.

7. A monitored CCTV system should be considered for shared areas and be capable of capturing clear evidential images

8. Bicycle storage should be secure and it should not be possible to see bikes from the outside of the store. The store must be in view of active areas and be well lit to assist students during hours of darkness. There should be a thumb turn lock on the inner face to prevent users from being accidentally locked in.

9. The curfew for students is noted but should be written into the management plan

*10. There should be clear rule setting throughout the building so that students are in no doubt as to what is expected of them in terms of behaviour for both inside and outside of the premises.*

### **Strategic Transport:**

No comments received.

### **Summary Of Representations**

24 letters of objection and 36 letters of support have been received. Issues raised by the objectors:

- Impact on the local area and Conservation Area
- Impact on property values
- Noise and disturbance
- Littering
- Anti-social behaviour
- Standard of accommodation for current occupiers
- Lack of recreation facilities for students
- Loss of community facility for local residents
- Future use of buildings
- Loss of a potential future housing site
- Highway safety
- Increase in traffic
- Impact on local businesses
- Impact on parking

The comments in support of the application included:

- Re-use of disused hotels
- Economic benefits to local area
- Provides jobs
- Social and cultural enrichment

### **Relevant Planning History**

P/1985/1248: Fire Escape And Escape Doors. Approved 24/5/1985.

P/1987/1445: Alterations And Formation Of Bathroom And W.C. Approved 25/9/1987.

P/1989/1287: Extensions And Alterations To Form Additional Bedrooms And Other Accommodation. Approved 4/10/1989.

P/1990/1289: Reduction In Height Of Existing Stone Wall And Rendered Piers. Approved 29/8/1990.

P/1990/1290: Alterations To Boundary Wall And Entrance Area. Approved 16/10/1990.

P/1990/1369: Illuminated Sign Mounted On Boundary Wall. Refused 15/10/1990.

P/2007/0965: Temporary Siting Of Storage Container (In Car Park). Refused

30/11/2007.

P/2015/0715: Change of use of hotel to form 10 flats including communal space and 9 car parking spaces. Demolition of more recent additions to villa and remodelling of some existing extensions, new windows and balconies. Modification of roof to include slated pitched elements. Approved 21/10/2015 but not implemented.

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

The key issues to consider in relation to this application are:

1. Principle of the development
2. Amenity
3. Visual impact
4. Transport Impacts

#### **1. Principle of the development**

The permitted use of the building is a hotel.

The site is located outside a Core Tourism Investment Area . Policy TO2 (Change of use of tourism accommodation and facilities) states that the change of use of holiday accommodation or facilities outside Core Tourism Investment Areas will be permitted where:

1. *The holiday character of the area and range of facilities and accommodation are not undermined; and*
2. *One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; or it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.*

Policy TO2 also requires that where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use. Additionally, a high priority will be given to restoring the character and appearance of buildings within conservation areas.

Whilst Policy TO2 relates to a change of use away from tourism, it does not relate to a change of use away from C1 uses. 'Tourism attractions and facilities' are defined in the glossary of the Torbay Local Plan as being:

*'A range of accommodation, attractions, amenities etc. that contribute to the role*

*and holiday and leisure character of the area. They include (but are not limited to) holiday accommodation, cafes, restaurants (and other food and drink uses), local shops, museums, zoos, historical and cultural uses, leisure uses, and other recreational attractions for sport or maritime activities.'*

This is a very wide definition and there is no definition of 'holiday accommodation'. Owing to the wide definition of 'tourism', it is considered that this can include 'educational tourism', particularly given that EF and the accommodation under consideration serves foreign students. The applicant's agent has argued that the change of use of the premises would not take the business outside of a tourism use for the following reasons:

- EF provide language training with cultural exchange, academic achievement and educational travel.
- EF provide a range of short-term high school immersion programmes to give students a taste of life abroad and to learn a foreign language.
- Of the current 300 students on roll aged from 14 to 19 years, the students are from 23 countries and none are from the UK.
- EF students partake in an extensive range of extra-curricular activities at the end of the school day and at weekends. These activities range from sporting activities to cultural visits to historic towns, cities, buildings, the coastline and countryside.

The application states that the proposed change of use of the premises includes a large element of 'tourism' or 'cultural activities'. Officers consider that this is a reasonable argument and deem that in this instance, given that the proposed use of the premises is an educational tourism use, Policy TO2 does not apply.

Given that the proposal provides an educational tourism use, it is considered to be acceptable in principle.

## **2. Economic Benefits**

Policy SS4 (The economy and employment) of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses and education facilities, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay.

Policy SS11 (Sustainable communities) of the Local Plan details that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay, and particularly within Community Investment Areas, will be supported in principle.

The proposed student accommodation is required to serve EF Academy, a Torquay-based English language school, with an enrolment of 300 students

during the academic year and with potential to grow further in future. The academy, and associated accommodation, provide employment and attract foreign students into Torbay, all of which generate benefits for the local economy. In this respect, it is considered that the proposal corresponds with the aspirations of Policies SS4 and SS11 of the Local Plan.

### **3. Amenity**

Policy DE3 (Development amenity) of the Torbay Local Plan details that all development should be designed to provide a good level of amenity for future residents or occupiers and should not duly impact upon the amenity of neighbouring and surrounding uses. Policy SS11 states that proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, anti-social behaviour, disorder and community conflict.

A number of objections have been raised with regards to noise and disturbance, littering and anti-social behaviour, which it is alleged the proposed use gives rise to.

The Council's Senior Environmental Health Officer has stated that his department have no records of having received any complaints about either the Maycliffe Hotel or the Brampton Court Hotels in their current use. The Senior Environmental Health Officer does not consider the proposed use of the buildings to be intrinsically noisy and he has commented that if the premises are run in a responsible fashion, the use should not give rise to unacceptable nuisance. He has commented further that if issues with noise from students were to arise and they were not dealt with by the owners of the buildings, the Council could utilise its powers under the Statutory Nuisance regime to resolve the situation.

However, given the objections raised with regards to noise and disturbance, and in order to preserve residential amenity, the Senior Environmental Health Officer has recommended that a condition be imposed on any permission requiring the development of a noise management plan and that the details of this plan be approved by the local planning authority. It is also recommended that a review mechanism be put in place so that should it be required, the management plan can be modified in consultation with the Council.

The applicant, in conjunction with EF, has supplied a draft management plan, which the accommodation and outdoor spaces will be managed in accordance with. The management plan states that there is a curfew for all students of 21:00 Sunday to Thursday and 23:00 Fridays and Saturdays, and that external lighting is switched off at the curfew hour. The management plan includes measures for dealing with litter and states that no football/basketball games may be played in the grounds or in surrounding streets and the students are directed to Torre Abbey Meadow to play ball games. Whilst the students staying at both hotels have access to a number of internal communal areas, it is noted that other than a small patio area outside the Maycliffe Hotel, the only outdoor amenity area that



serves both buildings is a grassed area outside the Brampton Court Hotel, adjacent to St Lukes Road South. However, given that both Torre Abbey Meadows and Torre Abbey Sands are approximately a 10 minute walk away from the premises, it is not considered unreasonable to expect students to use these facilities for outdoor activities. The proposed accommodation is managed by on-site guardians who reside at the premises.

The concerns with regards to noise, disturbance and anti-social behaviour, are acknowledged, however, it is considered that these issues can be properly controlled through adherence to a robust management plan, which can be secured through the use of a condition. Furthermore, through the granting of a temporary permission, specific to EF Academy, that adherence to the approved management plan can be monitored by the Council and taken into consideration should a request to continue the activity, beyond two years, comes forward. Subject to these conditions, it is considered that the proposal would not result in an unacceptable level of harm to the amenities of neighbours, and that the proposal would be in accordance with Policies DE3 and SS11 of the Local Plan.

#### **4. Visual impact**

Policy SS10 (Conservation and the historic environment) of the Local Plan states that proposals will be supported which preserve, and where appropriate enhance, the significance and setting of the district's heritage assets. Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

Although the Conservation Officer commented that external improvements to the building were required in line with Policy TO2, given that the proposed use would be for education tourism, it is considered that requirements of Policy TO2 do not apply in this instance.

Given that no external changes are proposed, it is deemed that the proposal would not result in harm to heritage assets, or unacceptable harm to the character or visual amenities of the locality and as such, would not conflict with Policies DE1 or SS10.

#### **5. Transport impacts**

The students staying in the building are aged 14-19 and the applicant's agent has stated that none of them own a car. As such, it is considered likely that the proposed use of the building as a student residence would result in less vehicular trips than the existing use of the building as a hotel. As such, it is deemed that the proposal would not result in any considerably worse transport impacts than the existing use of the building as a hotel.

#### **6. Other Considerations**

The Police Designing-Out Crime Officer has made a number of comments that are either not considered to be planning matters or make recommendations that

are considered unnecessary in this case. The desire to ensure compliance with an appropriate management plan and achieve good order and behaviour at the site is addressed through the proposed use of conditions as discussed earlier in this report.

### **Neighbourhood Plan**

The Torquay Neighbourhood Plan has recently completed its independent examination stage and the relevant policy for this application is Policy T2 (Change of Use constraints within an established tourism area or CTIA (Core Tourism Investment Area)). In the Examiner's Report of the Torquay Neighbourhood Plan, the Examiner has recommended that the wording of this policy is changed to change of use from tourism accommodation within a CTIA to HMO or student halls of residence or hostel type accommodation will not be supported. Given that the application site is not located within a CTIA, it is considered that the proposal would not be in conflict with Policy T2.

### **Statement on Human Rights and Equalities Issues**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

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

S106:

Not applicable.

CIL:

Not applicable.

#### **EIA:**

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA

development.

### **Conclusions**

Subject to the use of conditions, the proposal is considered to be acceptable having regard to the Local Plan and all other material considerations.

### **Informative(s)**

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

### **Condition(s)/Reason(s)**

01. The use hereby approved shall cease within two years of the date of this planning permission.

Reason: To allow for sufficient time to monitor effects of the development and the ability of the approved Management Plan to ensure that the change does not unduly impact upon the amenity of neighbouring and surrounding uses in accordance with Policies DE3 of the Torbay Local Plan 2012-2030.

02. (a) The use hereby permitted shall cease unless, within two weeks of the date of this planning permission, a management plan has been submitted to the Local Planning Authority for its approval in writing. The management plan shall include the following:

- A code of conduct for students whilst on site
- Measures for preventing anti-social behaviour and loitering in the neighbourhood of the site
- A proposed scheme of monitoring
- A scheme of sanctions should students fail to comply with the code
- A reporting scheme so neighbouring residents can express their concerns
- A liaison and review mechanism to address emerging concerns

The use shall thereafter be undertaken in full accordance with the approved details.

- (b) If no management plan in accordance with condition 02.(a) above is approved within 3 months of the date of this permission the use hereby

permitted shall cease until such time as a management plan approved by the Local Planning authority is implemented.

Reason: To ensure that the use of the building is properly managed and monitored in the interests of preventing harm to the amenity of the area, and in accordance with Policy DE3 of the Torbay Local Plan 2012 and 2030.

03. Only students of the Education First International Academy, Torquay shall reside at the student accommodation hereby approved.

Reason: To maintain control of potentially inappropriate development as the sui generis use of the premises as described in the application is considered appropriate in this location in that it would comply with Policies DE3 of the Torbay Local Plan (1995-2011). Any subsequent sui generis use or changes in operation by subsequent owners would have to be considered on their individual merit.

### **Relevant Policies**

TO2 - Change of use of tourism accommodation

SS4 - The economy and employment

SS11 - Sustainable Communities Strategy

DE1 - Design

DE3 - Development Amenity

SS10 - Conservation and Historic Environment