

Application Number

P/2012/0995

Site AddressRoseville
Marine Gardens
Paignton
Devon
TQ3 2NT**Case Officer**

Mr John Burton

Ward

Preston

Description

Change of use of residential home (Class C2) to house in multiple occupation (sui generis)

Executive Summary/Key Outcomes

It is recognised that in the right place and within established policy criteria, HiMO's represent an important source of inexpensive housing which is clearly needed in Torbay. The surrounding area is generally of a residential character, and so the proposed use would be in keeping with this. The property is currently used as a class C2 residential institution, which could be argued to be a non-conforming use. The proposal appears to conform with all of the primary policy considerations. However, there have been objections from the local community.

Recommendation

Committee Site Visit; Conditional Approval (conditions to be delegated to the Executive Head of Spatial Planning in line with the schedule at the end of this report); Subject to the completion of a s106 Planning Obligation to offset costs that will arise from the use.

Site Details

Large detached property at the end of Marine Gardens on its northern side, lying immediately adjacent to the main Paignton to Torquay railway line.

Detailed Proposals

Permission is sought for a change of use from a class C2 residential institution (care home) to a House in Multiple Occupation. This proposal for a HiMO under Planning Legislation cannot be considered as a change of use to class C4 as this use class is defined as being small shared dwelling houses occupied by between three and six unrelated individuals. Any housing providing for a greater number than this is defined as being a 'sui generis' use. The proposal seeks accommodation for up to 18 people in residence plus a manager's accommodation as an extra unit.

Summary Of Consultation Responses

E.H.O. (Housing): Observations awaited.
Highway Authority: Observations awaited.
Environment Agency (re: flooding) Observations awaited.

Summary Of Representations

3 responses received from neighbours in the vicinity at the time of compiling this report, any further representations will be reported to members before the committee. Relevant comments made so far include:-

- Potential impact upon residential amenities
- Likely noise pollution arising from proposed use
- Marine Gardens is often blocked in the mornings due to delivery lorries
- Increase in traffic along a road without pavements
- Potential impact upon patronage of nearby holiday accommodation
- Likely imposition of problems with 18 residents
- Potential impact of a HiMO upon the holiday character of the area due to anti-social behaviour and difficulties with safety and security
- The Council recommended on 24th March 2010 that action was needed to stop the increase in HiMO's.
- Impact upon the ability to rent adjacent residential apartments
- Roseville be much better as a care home for the frail

It is understood that the reference to the Councils recommendation on 24/03/10 means the paper approved by Council seeking to remove permitted development rights of residential properties across the Bay to change use from C3 residential to C4 use where up to 6 unrelated individuals can share accommodation (small scale HiMO). The law has changed to make this a permitted change. The proposed Article 4 direction is currently out for consultation. However, this would not apply in this instance as the proposal exceeds the C4 occupancy restriction of 6 occupants.

The representations are reproduced at Page P.203.

Relevant Planning History

P/1988/0563	Alterations and additions to provide additional bedrooms and increased lounge/dining room areas. Approved 11/05/1988
P/1992/1108	2nd floor extension to form owners flat and fire escape - approved 09/10/1992
P/1996/1047	Extension to form owners flat. Approved 08/10/1996
P/2008/0429	Alterations and extensions to provide additional accommodation. Approved 05/06/2008

Key Issues/Material Considerations

Background to planning policy considerations in respect of Houses in Multiple Occupation (HiMO's) -

Concentrations of Houses in Multiple Occupation (HiMO's), and the geographical

concentration of certain groups of people residing in them, can lead to substantial changes in the characteristics of a neighbourhood. HiMO's intensify residential occupancy and can have detrimental impacts on the character of streets and places, considerations include parking pressures, social infrastructure requirements, noise and disturbance and other environmental impacts. There are also cumulative impacts that can arise when the concentrations of HiMOs are increased within communities.

A suite of measures exist in relation to the regulation and management of HiMOs that involves various bodies, including the Council. Each tool is capable of preventing, solving or mitigating certain impacts that are a result of HiMOs and will be appropriate in different circumstances. These are as follows:

- Planning Services control the spatial distributions of different uses to ensure that the provision of dwellings (including HiMOs) meets demand in a spatially appropriate and sustainable way;
- The Housing Licensing team provides controls over the state and standard of accommodation that is being offered to tenants;
- The Public Protection Service investigates, and where appropriate enforces breaches of legislation in relation to noise, litter and other amenity related matters;
- Highways and Transport apply and enforce on street parking restrictions and permits;
- The Anti-Social Behaviour Unit apply legislative powers in relation to individuals' and groups' conduct;
- The Building Control team ensure, where the Building Regulation are applicable, the health and safety of people in and around buildings, and; the Police play a role where there is a disturbance of the peace.

In addition, HiMO's must comply with the health and safety requirements of the Housing Health and Safety Rating System (HHSRS). This requires accommodation to be healthy and safe, have adequate natural and artificial lighting and sound insulation. Furthermore, the Building Control team ensures the health and safety of people in and around buildings when the Building Regulation are applicable.

Informed by the national 'Evidence Gathering - Housing in Multiple Occupation and possible planning responses' report, a separate planning Use Class for C4 'Houses in Multiple Occupation' was created by the Government on 6th April 2010. This brought changes of use to C4 into the control of the planning system. This meant that changes of use from C4 to C3 were permitted development but

not vice versa. A class C4 use is defined as Houses in multiple occupation with between 3-6 occupants. In broad terms, the new C4 class covers small shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities. From 1st October 2010, in addition to permitted changes of use from C4 to C3, the Coalition Government granted permitted development rights for conversions from C3 to C4, thereby removing the automatic control of local planning authorities for that change of use.

However, large houses in multiple occupation such as that proposed with this current application, where there are more than 6 people sharing the use of the property, are unclassified by the Use Classes Order. In planning terms they are described as being 'sui generis' (of their own kind). Changes of use to a sui generis use require the submission of a planning application to the Council.

Principle and Local Planning Policy -

The primary issue in this case is whether or not the proposal would meet the tests of policy. Torbay's Local Plan for Torbay to 2032 and beyond is still being prepared and will be out for consultation shortly. Its policy on conversions to and from HiMO's is covered by policy H5. This will have some weight as a material consideration, but little at present given its early stage in the process. It is still therefore more appropriate to refer to the Saved Adopted Torbay Local Plan, which should be accorded great weight given the saved status of the plan. In any event, the relevant policy criteria within both documents are very similar. The relevant policy in the adopted Local Plan (1995-2011) is policy H7. This policy lists 8 criteria that need to be met before any application for the subdivision of a building into bedsits or non self-contained residential units (HiMO's) would be permitted. It is appropriate to test this application against each of these:

1) The property should be located within easy reach of public transport and community facilities.

Although this site is not located very close to shops and buses, the Preston District shopping centre and the main bus services which operate along Torbay Road are within walking distance of 'Roseville'.

2) The scale and nature of the use does not adversely affect neighbouring residential amenities (by way of noise and general disturbance).

This is a subjective consideration, and should be best judged by those who actually live adjacent to the use. Ultimately it will probably depend upon the individual occupants in the HiMO (were it to be approved), and this of course is beyond the control of the planning system. It is considered important to distinguish the use from its occupancy. Anti-social behaviour is not an inherent and inevitable consequence of a HiMO, but is attributable solely to the behaviour of occupiers. It is clear that planning control exists to regulate uses, however the

type of occupants and/or their general behaviour is outside of planning control. This would be controlled by other legislation and ultimately by the police, but is not a matter for planning consideration.

The number of rooms, and hence people residing at the property would decrease from 22 as a care home to 18 as a HiMO, which should be an improvement to neighbouring occupiers. However, any perceived improvement by reduction of numbers may be lost given the likely accompanying reduction in age ranges. In general terms however, if any HiMO such as may be approved here, was to cause detriment by way of noise and general disturbance, then this would be for other agencies to rectify. Given the size and position of this property, it is not considered likely that there would be any disturbances in planning terms that would indicate the proposal should not be granted approval. It should be remembered that there is still a presumption in favour of development (and changes of use).

Any HiMO authorised in Planning Law would also need to seek approval through Environmental Health legislation, where there is as a matter of fact, in built anti-social behaviour safeguards, which would not exist with other uses such as self contained dwelling units. Therefore, arguably, there is more control in the case of a HiMO. However, Members are requested to deal with this application on the basis of the use and the implications that would arise from this and not to determine the application on the basis of future potential occupancy, which is beyond the remit of the planning system. Therefore on balance it is not felt that the claims made about the impact of the HiMO upon the neighbouring uses are such as to justify refusal under planning legislation.

3) The car parking requirement for the proposed development does not generate an unacceptable level of traffic and adverse environmental impact.

This is the one criterion that it is proposed to remove from the new HiMO policy in the emerging Plan for Torbay, and so maybe it is not appropriate to dwell on this issue. However, it should be noted that 10 car parking spaces currently exist at the property and it is intended to retain these. Also, as previously stated, the site is within walking distance of busses and the services of the Preston district centre.

4) The development would not lead to a loss of holiday accommodation within a P.H.A.A.

Although there are some properties in the vicinity that provide holiday accommodation, the site is not within an identified P.H.A.A. and it is not felt that the proposed use would by its nature necessarily affect other uses. As mentioned previously, this would largely be determined by the residents, which cannot be controlled by the planning system. It should in any event be noted that the area is characterised by predominantly residential uses and as such the

proposed use would not be out of character with that which prevails in the area. Also, Members have allowed holiday accommodation in the area to change use to residential, for example at the Belvedere Apartments.

5) The development would not lead to an over-concentration of similar uses which would harm the character and amenity of the area.

There are no known other authorised HiMO's in the vicinity. Of course it is possible that unlicensed or unauthorised HiMO's exist, but there are currently no outstanding complaints registered with the planning department in relation to other HiMO's local to the application site. On the balance of probability it is reasonable to assume that the area does not have an over-concentration of HiMO uses. There is therefore no evidence to conclude that authorisation of this property as a HiMO in planning terms would be contrary to policy H7(5).

6) A suitable standard of accommodation can be provided.

The rooms proposed basically follow the size and position of those currently used by inhabitants of the care home. It is reasonable to conclude that if the rooms have been acceptable for accommodation by residents of the care home, then there would be similar acceptability for residents of a HiMO. Facilities to be shared would be the same in both instances. On this basis it is difficult to conclude other than the accommodation is suitable and meets the terms of policy H7(6).

7) Adequate storage facilities can be provided for recycling and refuse collection. The Council normally provides 1 wheelie-bin for land fill waste and up to three boxes for household recyclables per residential unit. It would clearly be impracticable to do this for each of the potential 18 occupiers. However the property can currently house up to 22 residents and provision is made for the storage and collection of their rubbish. The property has plenty of curtilage and it is envisaged that appropriate provision could be made for a degree of external storage (bin store).

8) Supervision by a resident owner/manager or an alternative appropriate level of supervision.

The existing operation makes provision for a Manager's flat, and this is shown as being carried through into the proposed use. The proposal is therefore clearly in accordance with the policy in this regard.

Closing the gap -

There is clearly a big demand for this kind of accommodation within Torbay. Recent housing needs surveys reveal that there is a desperate shortage of shared accommodation and HiMO's in Torbay. This is only likely to get more acute when the Government's new rules on claiming Housing Benefit come into force.

S106/CIL -

There is no reason why an application for a HiMO should not have to meet the tests imposed by National and Local policy in respect of making a financial contribution to offset costs that might arise from the use. Policy CF6 and adopted S.P.D. LDD6 (as amended and updated) are relevant in this regard. LDD6 (as amended) is clear that any Planning Obligation would need to seek costs based upon floor area being provided. A HiMO is technically 1 planning unit, so the level of contribution should be based on the total habitable floorspace within the property. This would take it into the 120 sq. m. + range.

In this instance, given appropriate mitigation for the pre-existing use, contributions should be sought for the following criteria:-

Waste Management	£ 50
Lifelong learning	£ 470
Green space and recreation	£2370
Stronger communities (policing)	£ 200
Monitoring (at £200 per unit)	£ 200

TOTAL **£3390**

Conclusions

HiMO's represent an important source of inexpensive housing which is clearly much needed in Torbay. Nevertheless, they should only be granted planning permission where it can be demonstrated that they meet the requirements of policy and all other interests of acknowledged importance. In view of all of the issues involved as discussed in this report the application is recommended for approval, but will need to be the subject of a Planning Obligation to meet the costs arising (as defined above). Members are requested to make a site visit in view of the concerns expressed from local residents.

Conditions

The following suggested conditions are recommended to control the use:

1. Site supervision and retention of site managers premise
2. Bin and cycle store
- 3.

Relevant Policies

-