

Application Number

P/2013/0057

Site Address

South Devon Hotel
10 St Margarets Road
Torquay
Devon
TQ1 4NP

Case Officer

Mrs Ruth Robinson

Ward

St Marychurch

Description

Extend time limit - Refurbishment of original building and formation of 26 Extra Care Units. Revised scheme to include single storey restaurant area, increased communal facilities at basement level and amendments to elevations - application P/2009/0073/MPA

Executive Summary/Key Outcomes

This application seeks to extend the time limit for implementation of the extant scheme for 26 extra care units on this site approved under Application No. P/2009/0073/MPA. This provides an opportunity for the LPA to take into account any material change in planning policy which may have emerged since the original decision was made.

This application involves the conversion of the main villa on the site to provide 8 extra care units and the demolition of a substantial 2 storey flat roofed extension which mars the appearance of this otherwise fine Edwardian Villa. In order to fund this enhancement, a terrace of 18 extra care apartments is to be constructed in the rear garden area.

This application generated much controversy with neighbours due to the size and location of the new terrace and associated traffic impacts particularly on St Margaret's Close, which is a private road and borders the southern boundary of the site.

The report to DMC relating to this application is attached as an appendix and details these concerns. The report concluded that there were insufficient grounds in terms of amenity, traffic and the size of the scheme to warrant refusal of planning permission.

Since this application was approved, national planning guidance has been amended by the adoption of the NPPF. This does not present any fundamental change to national planning policy that would lead to a different decision being reached in this case. In fact, the NPPF now makes explicit a presumption in favour of sustainable development and highlights the role of enabling

development, both of which are factors that would support the approval of this scheme. The Local Plan is still material in terms of the relevant policies to take into account at a local level.

As such, there have been no material changes in policy to justify a change in the decision made. Furthermore, there are no physical changes to the scheme or the existing site and surroundings that would lead to a different decision being made.

Recommendation

Conditional Approval: Subject to;

A. A supplementary S106 Agreement to be drawn up at the applicant's expense and to be completed by the 11th May 2013 to reflect the extension of time hereby approved.

B. Conditions as applied to P/2009/0073 with an additional condition to secure the repair of a boundary wall and retention/replacement of tree screening.

In the absence of a s106 agreement being completed, signed and sealed on or before 11 May 2013, that the application be refused for reasons of the lack of a s106 agreement and therefore lack of compliance with policy CF6 of the Local Plan, paragraph 203 of the NPPF and the adopted SPD 'Planning Contributions and Affordable Housing'.

Statutory Determination Period

This is a major application and needs to be determined within the 13 week period which expires on the 11th May 2013. If the S106 is not signed within this time frame the application should be refused for the reasons set out above.

Site Details

The site comprises a detached Edwardian property prominently located within the St. Marychurch Conservation Area. It is identified as a building of merit in the Conservation Area Appraisal Document. It occupies a corner position at the junction of St. Margaret's Road and St. Margaret's Close and is set in a generous well-landscaped setting. A substantial stone wall borders the site. The building is marred by a large two storey flat roofed front and side extension.

Beyond the rear boundary is the playing fields of the Priory Roman Catholic Junior School. To the north eastern boundary are residential properties and beyond this the Grade II* buildings of the Roman Catholic Church of Our Lady Help and St. Mary's Dominican Convent. Vehicular access is from St. Margaret's Close which is an un adopted private drive.

The building on the application site has been used as a care home and more recently as a hostel although its lawful use is unclear. It has been vacant for some considerable time.

Detailed Proposals

This application requests the extension of time of a detailed application for the construction of 18 two bed 'extra care' dwellings in the rear garden, demolition of the south west wing of the villa and reinstatement of facades, renovations to north west wing including communal facilities within the basement. Erection of single storey extension to provide for restaurant and kitchen, creation of accommodation in the roof, and change of use of the main villa to provide 8 two bed 'extra care' flats. The creation of a new vehicular access and provision of 11 car parking spaces. Use of whole site for C2 purposes (Extra Care Residential Institution).

Summary Of Consultation Responses

Highways: Observations awaited.

Conservation Officer: Observations awaited.

Summary Of Representations

Several letters of objection have been received from residents of the adjacent residential area, St Margarets Close, concerned at the scale of the proposal, traffic and congestion, possible failure of the boundary wall and its screening trees exacerbating overlooking to neighbouring properties, parking.

Relevant Planning History

P/2006/0470/MPA: Construction of 11 town houses and 3 flats. Refused 5/6/2006.

P/2007/0122: Alterations and conversions of north west wing, conversion of building to office space, erection of 13 dwellings. Refused 4/5/2007.

P/2007/0121: Demolition works: Approved 21/3/2007.

P/2007/1228/MPA: Construction of 13 dwellings and use of villa as office accommodation. Approved 12/2/2008.

P/2009/0057/MPA: Construction of 18 extra care units in the rear garden area, conversion of the main villa to provide 8 extra care units.

Key Issues/Material Considerations

This application seeks to extend the time limit for implementation of the currently extant scheme. This gives the LPA the chance to consider whether there has been any material change in circumstances since the original approval was granted, which should be taken into account.

There are a number of key issues in relation to the development of this site. These were identified in the report presented to the DMC meeting of the 26th May 2009 attached as an appendix to this report. Matters in relation to size of the proposal, the level of traffic likely to be generated, parking were all thoroughly

assessed in approving the original consent on the site.

As a brief summary, in terms of the size of the proposal, an existing 2 storey flat roofed extension which currently blights the appearance of this attractive building is to be removed and the original facades reinstated. The new block of building to the rear of the site is not substantially larger than the volume of poor quality building to be removed. It was established through an IVA [Independent Viability Assessment] that this scale of development was necessary to deliver the scheme and to fund the enhancements to the main villa.

In terms of traffic generation and car parking, the existing use of the building is for a care home although its lawful use is most likely a hotel. At the time of reaching a determination on the extant permission, there was an existing consent for office use in the main villa which could have generated more trip movements than the proposed use of the site for extra care accommodation.

The highway network was demonstrated to be adequate for the likely level of use. Similarly in terms of car parking, the number of spaces provided was shown to be adequate and in line with similar uses.

A significant level of objection was based on the fact that St Margarets Close is a private road over which the applicant had rights of access but no obligation to maintain. This was a civil matter between the applicant and his neighbours as confirmed by a subsequent Ombudsman Complaint which concluded that the Council had acted lawfully in dealing with the application.

The relevant policies in reaching a determination on this application were the 'PPGS' [Planning Policy Guidance Notes] and the adopted Torbay Local Plan. The PPGs were superseded by the NPPF in March 2012 although the Local Plan is still material in determining applications. There are no relevant changes to the policy framework which would suggest that the decision is not in compliance with current planning policy. In fact the notion of 'enabling development' which is embodied in this application is now strengthened and more explicit and there is now a presumption in favour of 'sustainable development'. This site is sustainably located with the proposed use being within easy walking distance of the St Marychurch shops and services.

It is possible as part of this review process to consider site specific matters that may have been affected by the passage of time such as ecology, tree growth or deterioration of parts of the structure. One of the resident's representations draws attention to the deterioration of a boundary wall that supports the bank of Leylandii trees, which separate the application site from housing on St Margarets Close. This requires some remedial works if the trees are to be retained in the longer term.

The applicant has been asked to assess this and draw up measures to ensure

the continuation of the screening function of the trees. An additional condition will need to be applied to ensure that these works take place.

S106/CIL -

The extant permission was subject to a S106 Agreement that was agreed after much discussion about the viability of the scheme and its capacity to deliver contributions in line with the adopted SPD. An IVA was carried out which confirmed that the scheme was barely viable in the, then current, market and a reduced scale of contribution was agreed. If the market had picked up in the intervening 4 years it may be appropriate to review the viability of the scheme. In view of the depressed market it is not thought necessary to do this and it is recommended that the provisions of the extant agreement be carried over to reflect the 'new' scheme.

Conclusions

The scheme was subject to extensive debate in 2009 and there has been no material change in circumstances since that decision was made. In view of this it is recommended that a period of a further 5 years is allowed for implementation of this scheme.

Relevant Policies

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Previous Report – P/2009/0073/MPA

Application Number

P/2009/0073

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Case Officer

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St Marychurch

Description

Refurbishment of original building and formation of 26 Extra Care Units. Revised scheme to include single storey restaurant area, increased communal facilities at basement level and amendments to elevations

Site Details

Comprises a detached Edwardian property prominently located within the St. Marychurch Conservation Area. It is identified as a building of merit in the Conservation Area Appraisal Document. It occupies a corner position at the junction of St. Margaret's Road and St. Margaret's Close and is set in a generous well-landscaped setting. A substantial stone wall borders the site. The building is marred by a large two storey flat roofed front and side extension. Beyond the rear boundary is the playing fields of the Priory Roman Catholic Junior School. To the north eastern boundary are residential properties and beyond this the Grade II* buildings of the Roman Catholic Church of Our Lady Help and St. Mary's Dominican Convent. Vehicular access is from St. Margaret's Close which is an unadopted private drive. It has been used as a care home and more recently as a hostel although its lawful use is unclear. It has been vacant for some time.

Relevant Planning History

- P/2006/0470/MPA Construction of 11 town houses and 3 flats. Refused 5/6/2006.
- P/2007/0122 Alterations and conversions of north west wing, conversion of building to office space, erection of 13 dwellings. Refused 4/5/2007.
- P/2007/0121 Demolition works. Approved 21/3/2007.
- P/2007/1228/MRA 13 dwellings and use of villa as office accommodation. Approved 12/2/2008.

A report on this scheme was considered by the Committee on the 16th March 2009. This sought to achieve agreement for the broad principles of a scheme for a care home on the site. It itemised outstanding matters of concern that required further discussion. These were:- 1. Clarification on the use of the building; 2. Level of contribution payable/Section 106 Agreement; 3. Amenity concerns; 4. Traffic impact/use of St. Margaret's Drive.

Subsequently, revised plans were submitted which increased the level of communal facilities within the scheme. This involved use of a majority of the basement of the villa to provide a residents' lounge/staff accommodation/offices and the construction of a single storey extension to provide a restaurant and small kitchen area. Its consideration was deferred at the meeting of the 20th April to allow the proposal to be re-advertised. Further revised plans were submitted on the 21st April 2009 responding to concerns about privacy/overlooking.

Relevant Policies

PPG15 "Planning and the Historic Environment"

PPS1 "Delivering Sustainable Development"

PPS3 "Housing"

Torbay Local Plan 1995-2011 -

HS	Housing strategy
H2	New housing on unidentified sites
H6	Affordable housing on unidentified sites
H9	Layout, design and community aspects
H10	Housing densities
H11	Open space requirements for new housing
ES	Employment and local employment strategy
E5	Employment provision on unidentified sites
CF7	Educational contribution
L6	Urban green spaces
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
BE5	Policy in conservation areas
BE6	Development affecting Listed Buildings
W7	Development and waste recycling facilities
TS	Land use transportation strategy
T1	Development accessibility
T2	Car parking
T26	Access from development onto the highway
T27	Servicing

Proposals

Is a detailed application for the construction of 18 two bed 'extra care' dwellings in the rear garden, demolition of south west wing, renovations to north west wing, including communal facilities within the basement. Erection of single storey extension to provide for restaurant and kitchen, creation of accommodation in roof, and change of use of the main villa to provide 8 two bed 'extra care' flats. Creation of new vehicular access and provision of 11 car parking spaces. Use of whole site for C2 purposes (Extra Care Residential Institution).

Consultations

Conservation Officer: No objections.

Strategy: on the basis that the flats are substantially self-contained, particularly with their own cooking facilities, they would appear to be C3 dwellings for which there is a requirement for affordable housing. Residential sheltered units will have a different impact on healthcare provision and unless the developer is willing to enter a Section 106 Agreement indicating that clients were formerly Torbay residents or has separate arrangements for healthcare then it would be appropriate to seek a contribution towards healthcare.

Strategic Transport: Sustainable transport contribution of £61,048 will apply.

Highways: Some changes to the footpaths should be undertaken by introducing dropped kerbs where route not continuous. The visibility onto St.

Margaret's Close is acceptable.

Arboriculturalist: No trees of merit on the site.

NHS Trust: Comments awaited.

PCT Torbay: Comments awaited.

Affordable Housing Coordinator: Considers that the offer of £50,000 towards meeting affordable housing needs is inadequate and in view of the character of the operation comprising large self-contained units for sale – the offer should be improved. Considers that a 'clawback' arrangement should be negotiated to achieve a greater level of contribution in the event of a greater sale value being achieved than indicated in the viability study.

Representations

Many letters of objection, reproduced and placed in the Members' Room.

Concerns are:-

- overdevelopment
- adverse impact on character and appearance of Conservation Area
- loss of amenity/privacy/overbearing impact
- inadequate levels of on-site car parking
- generation of excessive levels of traffic and parking in St. Margaret's Close and residential streets close to the site
- adverse impact on pedestrian and highway safety, particularly on St. Margaret's Close and on the safety of school children who use St. Margaret's Close, to achieve safe pedestrian access to school
- use of private drive (St. Margaret's Close) for access to the site which is maintained at expense of residents of St. Margaret's Close
- need to have client group of proposed C2 use closely defined
- greater height and impact than previous approval.

Following the re-consultation on the revised scheme, further letters of objection have been received. These repeat concerns about the scale of the use and its adverse impact and requests that thought is given to the impact of decisions that seek to achieve viable scheme in the current economic climate.

Key Issues/Material Considerations

Background

There has been an extensive history to development of this site.

Planning permission was granted in February 2008 for the construction of 13 dwellings in the rear garden and use of the main villa as office accommodation. A key benefit of the proposal was the demolition of a large two storey flat roofed extension which was damaging to the visual quality of the villa and the character and appearance of the wider conservation area. It was this benefit that largely

justified the scale of the additional development within the rear garden area.

Whilst 13 units were provided in the rear garden, the size of the dwellings and volume of the additional buildings on site was such that 15 units could have been accommodated, thus triggering an affordable housing contribution under Local Plan Policy H6, relevant circulars and Government guidance.

A viability study was submitted which demonstrated that the costs of demolishing the 2 storey extension were such that it would not have been viable to request an affordable housing contribution. As a consequence only education and sustainable transport contributions were requested via the Section 106 Agreement.

This revised scheme is for the construction of 18 two bed 'extra care' flats in a block within the rear garden and 8 flats in the villa in place of the previously agreed office accommodation. The garden block is of a similar appearance to the block approved under application P/2007/1228, although it has a bigger footprint and mass. It is described as comprising C2 extra care accommodation. In terms of the main villa the scheme includes demolition of the flat roofed extension and modifications to the north west wing, thus providing a similar "conservation benefit" to the extant scheme. It also involves works to the roof to increase floor space which were not included in the previous scheme.

The Committee meeting of the 16th March considered a detailed report on the proposed scheme. It was agreed that there was broad support for a care home on the site and the broad design principles were supported. A further report to the meeting of the 20th April was also deferred to allow re-consultation on revised plans. A key issue raised in this report was the exact nature of the use and consequent need to meet affordable housing requirements. There were also concerns relating to other Section 106 requirements, amenity and traffic impact on St. Margaret's Close.

1. *Clarification on the use of the building*

The original report expressed concerns that the scheme, which comprised large, two-bed self contained flats with very limited communal facilities and which would be for sale on the open market was more accurately described as a C3 sheltered scheme rather than a C2 "extra care" care home. There was a lack of information about the client group, about how the "new concept" in care would operate, how residents, probably frail/elderly would have their basic needs met given there was no communal kitchen/dining facility and only limited opportunities for social interaction. It was considered unlikely that it could be registered as a care home as it would not meet CSCI guidelines.

The applicant has responded to these concerns by increasing the level of communal facilities to include a restaurant, small kitchen, larger lounge area and more extensive staff accommodation. The restaurant is to be provided in a

single storey extension to the building which does increase the footprint of the scheme.

What is being proposed now, with the introduction of some communal facilities, is a hybrid or mixed use that is more care orientated than the initial submission. The question is whether there is sufficient care built into the proposal to qualify it as a C2 use and if it does, whether the nature of the scheme, i.e. all flats for sale, means that it should provide for housing need. The scheme comprises 26 large self-contained flats, available on the open market with an improved, yet still modest range of communal facilities and with hefty management/care charges that will have to be met from future occupants. It is important to identify whether this is sufficient to set it apart from a category II sheltered scheme and whether it does is a question of "fact and degree". The applicant has supplied an appeal decision where the Inspector reached a conclusion that the level of care provided within a scheme was such that it elevated it from a C3 to a C2 use and exempted it from meeting local housing need. It contained a range of communal facilities, providing a "high level of social interaction in a purpose designed environment" and care packages which provided for 15 full time posts. Further in order to comply more fully with the definition of a C2 use, as being accommodation for those in need of care, the occupants were restricted to age 65+.

In this scheme, the range of facilities is less, the age restriction is 55 and the draft Section 106 Agreement states that in terms of the care package "minimum staff assistance on a 24 hour basis". The reason for the debate about classification of use is the desire on the part of the applicant to avoid the affordable housing requirement. On previous "C2" uses such as Sladnor Park and Manor House, an affordable housing contribution was achieved on the basis that a discrete part of the scheme comprised ILUs and it was on these that the calculation was agreed. However, these were based on an entry age of 55 and therefore they may be some justification for agreeing that full compliance with affordable housing requirements could be partly set aside if a C2 use is more fully demonstrated. This would require an age restriction of 65+ or proven disability/infirmary, ample range of communal facilities and worked up care package. The applicant has been asked to investigate whether this is acceptable as an approach.

2. Level of contribution payable in terms of the SPD and affordable housing and other requirements of Section 106.

Based on the original scheme, a view was taken that the individual flats being large, self-contained, allowing for independent living, having limited care facilities and being for sale on the open market should meet the SPD in terms of meeting affordable housing requirements. This would mean the provision of 8 units on site, 6 social rented and 2 intermediate. A viability study was submitted which based on current market conditions and working with and existing site value based on the extant consent indicated that the scheme would make a substantial loss. This reflected also the costs of demolishing the large flat roofed extensions

as in the extant scheme.

The applicant has agreed to contribute £50,000 towards affordable housing. This is substantially less than indicated as being appropriate in the SPD. The Affordable Housing Coordinator considers that a clawback or overage agreement needs to be established in the Section 106 Agreement so that a greater contribution towards meeting local housing need can be made in the event that sale prices in excess of that indicated in the viability study are achieved.

A meeting was held to discuss this but has been rejected by the applicant who wishes to explore being more firmly in the C2 camp as explained in the previous section.

It may be difficult to insist on a greater contribution towards affordable housing than is already on the table if a C2 use is more fully demonstrated through more robust entry requirements and enhanced care package.

A contribution is still justified due to the 'hybrid' nature of the use and the possibility of an incremental C3 use arising from spouses/partners remaining in flats after the demise of partners receiving care. It has been requested that this amount be increased to more adequately reflect this particular circumstance.

The 'other' developer contributions were, in the absence of information that confirmed a C2 use, calculated on the basis that the scheme was a C3 use. This required a contribution of £100,468. This the applicant has agreed to. If a view is taken that the level of care to be provided is sufficient to elevate it to a C2 use then these contributions would be reduced. Given that the scheme could 'afford' this level of contribution, it is suggested that the balance be put towards the affordable housing 'pot'. If a C2 use is demonstrated, there will be a need to contribute towards health care costs if the future residents of the scheme are not 'Bay residents'.

3. *Amenity concerns*

It is anticipated that these will be satisfactory. The footprint has increased by approximately 2 metres along the majority of the block, increasing to a 6 metre increase in width over a small area within the site. The roof, whilst maintaining the same ridge height as the approved scheme, is a more dominant feature as it has been redesigned in order to accommodate living accommodation. There were more dormer windows and roof lights and a glazed link has been introduced between the major part of the block and what comprised a detached villa form in the approved scheme. There are dormer windows and balconies introduced to the north west elevation in positions where they had been deleted through negotiations in respect of the approved scheme. Whilst revised plans have been received, it is not considered that the amenity concerns in terms of overlooking have been wholly overcome. The revised scheme incorporates a restaurant and kitchen in a single storey extension adjacent to properties on Priory Road. Whilst

no specific objections have been received, advice from the Environmental Health Officer will be sought.

4. *Highway concerns/use of St. Margaret's Drive*

A longstanding area of concern in respect of development on this site has been the impact on St. Margaret's Close which is a private drive, owned by the residents of St. Margaret's Close. The fact that the road is maintained at the expense of the residents is essentially a civil matter between them and the applicant who has rights of access and no liability. An Ombudsman complaint generated by the residents into the decision on the previous approval confirmed this. Notwithstanding this, there have been attempts to forge an agreement between the applicant and the residents of the Close regarding maintenance liabilities and impact on the integrity of the Close. It was also an aspiration to enhance the pedestrian environment of the Close, particularly as it affords access to the adjacent primary school under a Deed of Gift agreed by the residents.

A solution put to the residents was for the top half of the road to be adopted as public highway. This would allow the residents to be free of long term maintenance liabilities, would allow the residents private space to be properly protected from sporadic parking and would allow a good quality approach to be created, including traffic calming and pedestrian enhancements. However, the residents have rejected this suggestion. An alternative strategy has been put forward by the residents who want charges applied to the new dwellings to meet the costs of maintenance.

Economic Prosperity

If built, and if compliant with the SPD "Planning Contributions and Affordable Housing" it would boost the construction industry, meet the costs of necessary infrastructure and provide new homes including for those in need.

Community Plan

If built, and if compliant with the SPD, it would achieve as above.

Mayoral Vision

If built, it would comprise redevelopment and refurbishment of a neglected site within the Conservation Area and thus be compliant with the Mayoral Vision.

Sustainability - Makes more efficient use of a brownfield site.

Crime and Disorder - No observations received.

Disability Issues - Level access achieved.

Conclusions

At this stage, it is not known if a 'C2' use can be properly demonstrated through

increased age restriction/enhanced care packages but negotiations are ongoing with the applicants. If it can, then, in the circumstances of the viability study and the proposed Section 106 Agreement on offer, it is recommended that the package be regarded as acceptable. This view is likely to be contrary to the advice of the Affordable Housing Coordinator who wishes to achieve an overage clause within the Section 106 Agreement.

Recommendation:

Subject to agreement to age restriction of 65+/enhanced care packages, agreement of the Environmental Health Officer in respect of restaurant use, works to St. Margaret's Close, satisfactory resolution of amenity issues in respect of Priory Road and conclusion of a Section 106 Agreement to achieve:

1. Affordable Housing contributions;
2. Other contributions in line with SPD as appropriate;
3. Demolition of extension/remodelling of north west wing;
4. Implementation of schedule of repairs;
5. restriction on occupation, care package, disposal mechanism;
6. Healthcare contribution;

Conditional Approval.

Condition(s)/Reason(s)

01. Prior to the commencement of development, full details at a scale of 1:20 shall be submitted to and agreed in writing by the Local Planning Authority. These details shall show:- a) windows b) doors c) eaves
detail/rainwater goods d) dormer windows e) porches f) roof lights

Thereafter the agreed details shall be included in the construction of the scheme hereby approved. Reason: To ensure that the detailed appearance of the development is appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

02. Prior to the commencement of development, full details at a scale of 1:20 of works to the North West wing which comprise inclusion of a pitched roof, revised fenestration and re-cladding of the main elevation and details at the same scale of works to reinstate the relevant elevations of the main villa following demolition of the South West wing as indicated in Drawing No: 2707-213 rev C shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, these works shall be implemented only in accordance with these details. These works, and the agreed schedule of works to the main villa shall be implemented in full prior to the occupation of any of the units hereby approved.

Reason: To ensure that the detailed appearance of the development is

appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

03. Prior to the commencement of development, a schedule of works in respect of the main villa shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed works shall be implemented in accordance with the schedule prior to occupation of any of the units hereby approved.

Reason: To ensure that the detailed appearance of the development is appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

04. Samples of materials to be used in the restoration of the main villa, on the external surfaces of the new dwellings and all hard-surfacing materials shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed materials shall be used in the implementation of the scheme.

Reason: To ensure that the detailed appearance of the development is appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

05. Within one month of the date of this decision, full details of advance boundary planting to the north west boundary of the site shall be submitted to and agreed in writing by the Local Planning Authority as indicated and confirmed in Drawing no. RM110.01M rev.D. The approved scheme shall be implemented in the first available planting season following written agreement being received unless otherwise agreed in writing by the Local Planning Authority. Thereafter any trees, shrubs or plants that within a 5 year period from completion of the planting scheme die, are removed or become damaged or diseased shall be replaced in the next available planting season with others of a similar size and species.

Reason: To ensure that the site is landscaped in an appropriate manner to ensure that the character of the area is not harmed and that amenity is preserved and to accord with Policies H9 and BE2 of the Torbay Local Plan 1995-2011.

06. The landscape proposals indicated in Drawing No: RM.110.01.Rev D, shall be implemented in the first available planting season following the completion of the development, or occupation of the dwellings/office whichever is the sooner. Trees no.4. planted adjacent to the access way shall not form part of the scheme and agreed with the applicants agents for visibility reasons. Any trees, shrubs or plants which, within a period of 5 years from the completion of

the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species.

Reason: To ensure that the site is landscaped in an appropriate manner to ensure that the character of the area is not harmed and that amenity is preserved and to accord with Policies H9 and BE2 of the Torbay Local Plan 1995-2011.

07. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order, 1995 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Parts I & II shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To ensure that the character of the scheme is preserved and amenity not harmed and to accord with Policies H9 and BE5 of the Torbay Local Plan 1995-2011.

08. Full details of the bin stores (sufficient to accommodate adequate storage for waste and recycling material) shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed scheme shall be implemented and made permanently available for use prior to the occupation of the units hereby approved.

Reason: To ensure that there is adequate provision to meet the waste and recycling needs of the occupants of the scheme that it is to an acceptable design and accords with Policies W7, BES, BE1 and BE5 of the Torbay Local Plan 1995-2011.

09. Full details of all fences, walls and boundaries shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development on site. Thereafter the agreed structures shall be implemented prior to the occupation of the dwellings/office.

Reason: To ensure that the final appearance of the scheme is acceptable and to comply with Policies BES, BE1 and BE2 of the Torbay Local Plan 1995-2011.

10. Full details of cycle parking shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed cycle parking shall be implemented and retained permanently on site prior to occupation of the units hereby approved.

Reason: To ensure that there are adequate facilities to encourage more sustainable means of accessing the site and to comply with Policies.

11. Prior to the commencement of development, a scheme to ensure safe pedestrian access across the proposed entrance to the site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed measures shall be implemented in full prior to the occupation of any of the accommodation hereby approved.

Reason: To ensure that safe pedestrian access is achieved along the existing footway and to comply with Policy T5 and T2 of the Torbay Local Plan 1995-2011.

12. The residential units hereby approved shall not be occupied until the new access as indicated in Drawing No: 2707-225 has been implemented and the car parking and cycle storage provided. Thereafter these facilities shall be permanently retained in place.

Reason: To ensure that adequate access, car parking and cycle storage is provided and to accord with Policies TS, T2, T25 and T26 of the Torbay Local Plan 1995-2011.

13. The windows to the north east elevation and as shown on Drawing No: 2707-202 Rev D, shall be permanently fixed and opaque glazed prior to occupation of any of the flats within this building. The windows shall remain fixed and opaque glazing shall be permanently retained within these windows unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the residents on Priory Road and to comply with Policies H9 of the Torbay Local Plan 1995-2011.

14. Prior to the works to alter and extend the North West extension to the main building, details of the works to crown lift the tree located in the garden of Villa Pax, Priory Road shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, no works to the tree shall be carried out except in accordance with these details.

Reason: To ensure that only the agreed works are carried out to the tree to facilitate the works to alter this section of the building in the interests of maintaining the visual quality of the tree in the street scene and to accord with Policies L8, L9 and BE5 of the Torbay Local Plan 1995-2011.

15. Prior to the commencement of any works on site, including demolition, a Method Statement shall be submitted to and agreed in writing by the Local Planning Authority indicating how construction traffic is to access and egress the site via the side garden to the property, detailing engineering works that are required for this to take place and the means of reinstating the gardens on completion of development.

Reason: In order that the most appropriate management regime can be adopted during construction in order to minimize the impact on local residents and to accord with Policy H9 of the Torbay Local Plan 1995-2011.

16. Prior to the commencement of development, full details of the reinstatement of the footway including the provision of dropped kerbs across the existing entrance to the South Devon Hotel, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the footway shall be reinstated in accordance with these details prior to the occupation of any of the accommodation hereby approved.

Reason: To ensure that safe pedestrian access is achieved along the existing footway and to comply with Policy T5 and T2 of the Torbay Local Plan 1995-2011.

17. Prior to the occupation of any of the residential units hereby approved, a Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority, in respect of access to and from the site by residents, visitors and staff. This shall indicate all measures to be employed to improve accessibility by foot, cycle and public transport. This shall cover a period of 5 years from occupation and be subject to monitoring and biennial reviews which have to be agreed in writing by the Local Planning Authority.

Reason: To promote sustainable means of transportation to and from the site for all users of the site and to accord with the requirements of PPG13 "Transport", PPS1 "Delivering Sustainable Development" and Policies TS and T2 of the Torbay Local Plan 1995-2011.

18. Prior to the occupation of any of the residential units hereby approved, the existing access shall be closed and the relocated access as indicated in Plan No: 2707-225 Rev C shall be constructed in accordance with the approved details. The relocated access cannot be used until the applicant has provided the Lomas Corner Management Company with a Legal Undertaking that he will meet the reasonable legal costs of the residents and the school incurred in varying the Deed of Grant that relates to St. Margaret's Close.

Reason: To ensure that the opportunity is provided for this safe route for school children to be varied in terms of ensuring continuing pedestrian safety and to accord with Policy T2 of the Torbay Local Plan 1995-2011.

Informative(s)

01. This application is accompanied by a Section 106 Legal Agreement.
02. The tactile paving across St Margaret's Close has been deleted from Plan no. 2924-20 rev P7.

03. Town and Country Planning (General Development) Amendment Order 2003. The proposed development has been tested against the following policies of the Development Plan and in the opinion of the Local Planning Authority is not in conflict with the following policies. a) the scheme has been designed to respect the character and appearance of the conservation area through use of materials, design, massing and scale. It achieves restoration of the main villa on site and is in terms of layout, design and community aspects satisfactory and does not unacceptably impact on local amenity BES, BE1, BE2, BE5, H9. b) Provides accommodation for people in need of care HS, CF15c) It is acceptable in terms of levels of car parking and access T25, T26. d) The proposal meets the requirements of the SPD "Planning contributions and Affordable Housing" CF6, H6e) Appropriate measures are in place to deal with impacts of construction.

Relevant Policies

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