

Application Number

P/2014/0470

Site Address

The Arboretum
Blagdon Road/West Lane
Paignton
Devon

Case Officer

Mrs Helen Addison

Ward

Blatchcombe

Description

Revision to conditions 8,9, 10 and 11 of application references P/2008/1217 and P/2009/0479 relating to provision of facilities building, phasing of development on the site and to allow residential use of 9 apartments in the main building (apartments 42-50).

Executive Summary/Key Outcomes

The application is to allow the nine apartments in the main building on the site to be used for permanent residential purposes. In addition it is proposed to revise the trigger for the delivery of the Leisure facilities building and woodland units so that they do not need to be provided for use until 36 months after the sale of the 7th unit in the main building. The purpose of these revisions is to pump prime the delivery of the holiday units approved on the site under application references P/2008/1217 and P/2009/0479.

The works to the 9 apartments in the main block is ongoing and the scheme will result in the provision of high quality apartments. There has been a long hiatus in delivering this scheme because of the problems in securing finance for the development.

However, there remains a strong desire to achieve delivery of this prestigious holiday/leisure scheme. As such the proposed changes to 106 clauses and conditions are intended to release financing to deliver the remainder of the scheme.

Recommendation

The S106 agreement and conditions be varied within 3 months of the date of the meeting. If the agreement is not signed within this period the application be refused planning permission.

Statutory Determination Period

The eight week target date for determination of the application is 15th July 2014. It will only be possible to meet this target if the S106 agreement is completed by this date.

Site Details

Site of Barton Pines, now known as the Arboretum, which is situated about 2 kilometres to the north west of Collaton St. Mary on the edge of Torbay's administrative boundary with South Hams.

The site was most recently used as for holiday purposes. There is a substantial main building on the site and there were a number of pitches within the grounds. Approved works to the main building on the site have commenced.

Detailed Proposals

The application is for the following;

- To allow residential use of the 9 apartments in the main building on the site. This requires a variation of condition 8 on planning application references P/2008/1271PA and P/2009/0479PA which restricted the occupancy of the units on the site to holiday use only. The remainder of the units approved under application references P/2008/1271PA and P/2009/0479PA would continue to be restricted to holiday occupation.
- To revise the trigger for the delivery of the Leisure facilities building to making it available for use within 36 months of the sale and occupation of the 7th unit in the main building. Under application reference P/2012/0461 the trigger was varied to delivery 'within 20 months of the commencement of units 5-20 and 34-41, and prior to the occupation of units 2-4 and 21-33'. Under the original consents P/2008/1271PA and P/2009/0479PA delivery was 'prior to the occupation of any of the units'.
- To revise the phasing of development on the site to accord with plan reference 1489.1.7.3P. The provision of the woodland units and leisure facilities building to be completed within 36 months of the sale and occupation of the 7th unit in the main building.

Summary Of Consultation Responses

No consultations are relevant to this application.

Summary Of Representations

None received

Relevant Planning History

1985/1490	formation of 8 holiday flats approved 11.7.85
1989/2374	formation of 1 additional holiday flat on first floor approved 10.1.90
2003/0812	change of use of 9 holiday flats and owners accommodation

	to residential use, refused 29.7.03
2003/1962	change of use of 9 holiday flats and owners accommodation to residential use refused 29.7.03
P/2008/1217/PA	Formation of holiday village to form lodges, cottages, apartments and leisure facilities. Conditionally approved on 25/11/2008, subject to a Section 106 Agreement to ensure, inter alia, that the cottages, flats and lodges are used for holiday use only. A maximum of 59% of the approved units were to be sold on long leaseholds and the remainder retained within the ownership of the developer to be let for holiday purposes only. 25.11.88
P/2009/0479	Amendments to previous approval (ref application P/2008/1217/PA)- enhanced leisure facilities building; additions to lodges and cottages; extensions to existing main building Approved 10.08.09
P/2012/0461	Variation of S106 on applications P/2008/1217 and P/2009/0479/PA approved 11.10.12
P/2012/1105	Alterations to roof terrace to become enclosed extension with patent glazed roof light; provide lift tower at roof level behind conical tower; insert roof lights and amendments to fenestration approved 22.11.12
P/2013/0066/VC	To regularise the conditions attached to P/2008/1217PA and P/2009/0479PA planning approvals, the 2008 and 2009 Section 106 agreements with the content of the 2012 Section 106 agreement, approved by Development Management Committee on 8.7.13, decision not issued as S106 agreement has not been completed.

Key Issues/Material Considerations

The main issues are a) whether residential use of the nine apartments in the existing building would be acceptable and b) the effect of the proposed revisions to the S106 agreement on the character of the development and the necessity to maintain a tourism offer at the site.

Principle and Planning Policy -

Policy TU7 in the Torbay Local Plan 1995-2011 is relevant to the proposed change of use of the nine apartments in the main building to residential use. This Policy sets out three criteria to assess a proposed loss of holiday accommodation. These are; firstly, whether the loss of holiday accommodation would undermine the holiday character of the locality or the range of tourism

facilities in the Torbay. In this case the area around the application site does not have a tourist character as there are no other holiday uses in the vicinity of the site. The main concentration of holiday facilities in Paignton is close to the seafront and harbour. This property is some distance from the sea front. It is also noted that the property has not been used for holiday purposes for some time. Consequently it can be concluded that the proposed change of use would not impact on the range of facilities available.

The second criteria relates to an assessment of the significance of the holiday setting, view and relationship to tourism facilities. The application site is in a rural location some distance from tourist facilities and the sea. There is a long distance view to the sea that is attractive and makes a notable contribution to the reason why this site constitutes a good location for as a holiday destination. The character of the site is fairly unique in Torbay providing a spacious rural location that is accessible to Paignton. By reason of the quality of the setting of the site and the surrounding environment including attractive long distance views over the surrounding countryside, potentially the proposal does not meet the second criteria in Policy TU7. However the application to allow residential use of the main building is linked to the delivery of an extensive development of holiday accommodation on the site. The applicant has advised that the use of and sale of these nine apartments is necessary to pump prime further work on site to deliver the remaining holiday accommodation and facilities building.

The third criteria relates to whether the new use would be compatible with the character and other uses in the area. The predominant use of other buildings in the area is for residential purposes and therefore the proposed use would be consistent with the established character of the area.

Guidance on the interpretation of Policies TU6 and TU7 is contained in the Council's guidance document "Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan". In this guidance it is advised in respect of holiday apartments conditions on occupancy are likely to be removed. This guidance also advises that where planning permission for residential use is granted unsightly facilities should be removed. On the application site a large two storey extension has been removed that has significantly improved the appearance of the building.

In consideration of the proposed residential use of the main building it is a distinctive building of attractive design that makes a positive contribution to the character of the area. It is noted that extensive refurbishment works have been carried out by the applicant which have significantly improved the external appearance of the building.

Policies H2, H4, H9 and H10 in the Torbay Local Plan are relevant to the provision of new residential accommodation. These Policies promote a high

standard of development to create a satisfactory standard of development. The nine apartments would be consistent with the objectives of these Policies in that they are of a reasonable size and would provide a good quality of environment to live in. There would be on site parking and amenity space available on the site.

In summary, the proposal to use the existing building on the site for residential use would be consistent with the Policies identified above in the Torbay Local Plan 1995-2011, providing it is linked to the delivery of the new holiday accommodation that has been approved on the site.

to the previous S106 agreement

The original S106 agreement has been revised under application reference P/2012/0461 which related to the timing of the delivery of the facilities building. (The approved amendment was to make it available within 20 months of the commencement of units 5-20 and 34-41. In addition units 2-4 and 21-33 could not be occupied until the leisure facilities are available).

Further revisions were requested by the applicant under application reference P/2013/0066VC although this consent has not been issued as the S106 agreement has not been completed. These revisions related to;

- timing of the delivery of the facilities building (as agreed under application reference P/2012/0461).
- revision to phasing of the development,
- implementation of the approved foul and surface water management strategy not to apply to units in the main building,
- revision to triggers for payment of monitoring and sustainable transport contributions to prior to the commencement of development of units 2-41 on the site.

The current proposal is to revise the timing of the delivery of the leisure facilities building to within 36 months of the sale and occupation of the 7th apartment of units 42-50 (the 9 apartments in the main building). The principle of tying the delivery of the facilities building to the sale of the apartments for residential use is to ensure that the holiday development is delivered. This link between allowing residential use of the main building and delivering the holiday development on the site is material to the decision to allow residential use of the main building.

At para 28 the NPPF advises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. The expansion of tourist and visitor facilities is supported. Policies TUS, TU3 and TU5 in the Torbay Local Plan 1995-2011 support the provision of new tourist facilities.

The proposed revision to the S106 agreement would continue to ensure that the Leisure Facilities building is provided, as its development would be linked to the

provision of accommodation on the site. Therefore the proposed revision would not change the character of the proposed development. It is noted that it would be in the applicant's interest to provide the Leisure Facilities building as this would be a key element of the development on the site and would significantly increase the site's attractiveness to future holiday makers.

S106/CIL -

In accordance with the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" The following S106 contributions would be required to mitigate the impact of residential use of the nine apartments on local infrastructure;

Planning Contributions Summary

Contribution

Waste Management (Site Acceptability)	£ 450.00
Sustainable Transport (Sustainable Development)	£ 8,870.50
Education (Sustainable Development)	£ 6,065.50
Lifelong Learning (Sustainable Development)	£ 1,425.50
Greenspace & Recreation (Sustainable Development)	£ 7,105.50
South Devon Link Road	£ 5,538.00
Total	£29,455.00
Administration charge (5%)	£ 1,472.75
Total with Admin Charge	£30,927.75

The applicant has raised concerns that the cost of these contributions would have a significant impact on her ability to deliver the holiday accommodation and leisure facilities building on the site, as it would reduce the capital available to invest in delivering new development.

The applicant considers that either the S106 contributions to offset the provision of residential development should be collected by the Council or the Council should impose conditions and measures in the S106 agreement to ensure delivery of new holiday units on the site. In the applicant's opinion the Council should not be seeking both of these objectives.

Officers consider that a compromise position would be the most appropriate way to address this matter. It is agreed that the benefit of a short term delivery of the leisure facilities building and woodland units would justify a case for the S106 contributions to be waived as there would be a significant benefit to the economy. However if the leisure facilities and woodland units are not delivered within a specified timescale it would be appropriate to require payment of the S106 contributions, as the link between residential use of the main building and the

new holiday units would become more tenuous. To this end it is suggested to Members that the above S106 contributions should not be payable providing the facilities building and the woodland cottages (units 5-20) are completed within 24 months of the trigger date. The trigger date would be the sale of the 7th main building apartment. In the event that the facilities building and woodland cottages are not completed within the 24 month timescale the above contributions would be payable to the Council.

Conclusions

In conclusion, residential use of the main building on the site would have a limited impact on the character of the area if allowing this use enabled delivery of the approved holiday units on the site. The proposed variation of the S106 agreement would provide additional flexibility for the applicant to develop the holiday units. This approach is consistent with advice in para. 28 of the NPPF to support economic growth in the rural economy.

Condition(s)/Reason(s)

01. Units 1-41 of the units hereby approved shall be occupied for holiday purposes only and not as a persons sole place of residence. Units 42-50 shall be occupied for residential purposes (as defined by Class C3 of the Town and Country Planning Used Classes Order 1987 as amended).

02. The Leisure facilities building indicated on drawing 1489.2.1.5e shall be provided and made available for use within 36 months of the sale of the 7th unit of units 42-50. Reason:

03. The development shall be carried out in accordance with the phasing drawing 1489.1.7.3P. The provision of units x to y and leisure facilities building shall be completed within 36 months of the sale of the 7th unit of units 42-50. Reason:

Relevant Policies

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