

Appeal Decision

Site visit made on 27 September 2016

by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 October 2016

Appeal Ref: APP/X1165/W/16/3150380

13 Esplanade Road, Paignton, Devon TQ4 6EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by The Regard Partnership Limited against the decision of Torbay Council.
 - The application Ref P/2016/0038, dated 8 January 2016, was refused by notice dated 7 April 2016.
 - The application sought planning permission for the alteration and separation of Nos 12 & 13 (reinstatement of original separate properties) to form 11 bedroom hotel (No.12) and 7 holiday apartments (No.13). Single storey extension at rear to form utility room for No. 12 without complying with a condition attached to planning permission Ref P/2013/1320/PA, dated 7 February 2014.
 - The condition in dispute is No 01 which states that: *"The holiday flats, hereby approved, shall be occupied for holiday purposes only, for no more than three months in any calendar year by any individual occupant, group of individuals or family and shall not be occupied as a main place of residence. The owner shall maintain an up to date register of the details of all occupiers, including names and main home addresses, of the holiday flats and hotel and shall make it available for inspection at all reasonable times by the Local Planning Authority."*
 - The reason given for the condition is: *"To ensure the holiday accommodation is not used for permanent residential accommodation in accordance with the application submission and with policy TUS and TU6 of the Torbay Local Plan 1995-2011."*
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Decision

1. The appeal is dismissed.

Preliminary matter

2. At the time of my site visit one bedroom in the building was occupied and the staff room was also utilised. The remaining bedrooms were vacant and unfurnished.
3. The reason for condition no 1 refers to policies TUS and TU6 of the Torbay Local Plan (1995-2011). This plan has been superseded by The Torbay Local Plan (2012-2030) (TLP) which was adopted in December 2015. I have determined the appeal on the basis of the current development plan.

Main Issues

4. The main issues are:
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- whether the condition is reasonable and necessary in the interests of the character of the area; and
- whether the proposal would provide satisfactory living conditions for future residents in terms of living space.

Reasons

Character of the area

5. The site is located on Paignton seafront and is within a terrace of 10 properties which have a very regular and traditional form and appearance. All the other properties in the terrace appear to be in use as hotels or for holiday accommodation with the exception of No 12 which is currently vacant. At the southern end of the terrace is the Esplanade Hotel. The surrounding area is predominantly characterised by tourist related uses including hotels, holiday accommodation, leisure facilities such as a mini golf course and cinema, and shops and restaurants along Torbay Road; a short distance to the north of the site. Policy TO1 of the adopted TLP identifies Paignton seafront as a Core Tourism Investment Area (CTIA).
6. The proposal seeks to remove condition 01 of planning permission P/2013/1320/PA so as to facilitate the proposed use of the building which is to provide housing for persons with learning disabilities who are in need of supported living accommodation. There would be six self-contained units, no communal facilities, and a staff room.
7. A completed unilateral undertaking has been submitted to ensure the site is occupied exclusively by persons in need of personal care by way of supported living. This seeks to ensure that the property is not able to be used as unrestricted residential accommodation. Notwithstanding this, the proposal would represent a non-tourist use which would detrimentally dilute the strongly tourist character of the area.
8. I recognise the need for accommodation of the nature proposed, for it to be provided locally so as to be close to the friends and families of the occupants, and for it to be close to the goods and services on offer in the nearby town centre. I also acknowledge the support provided by Policy H6 of the TLP for the provision of sheltered housing. However, such accommodation could be provided in other locations which are not within the CTIA or which would not result in the loss of a site which already has planning permission for holiday accommodation.
9. From my site visit, and from the evidence before me, I do not consider the number of vacant holiday premises in the area, including that at No 12 Esplanade Road, is any greater than would be reasonably expected in an urban area such as this, and does not necessarily indicate a lack of demand for tourist accommodation. Furthermore, the fact that No 12 would, when occupied, provide tourist accommodation does not justify the use of No 13 for a non-tourism use.
10. In addition, Policy SS11 identifies Paignton town centre as a deprived area within which residential units of between two and four bedrooms are encouraged and small self-contained flats discouraged in order to achieve a more balanced, sustainable community. I consider that the provision of larger properties would assist in addressing deprivation and therefore the provision of

one bedroom flats at the property would not. Accordingly, the development would not contribute towards achieving a balanced community.

11. As such, in conclusion, I consider that the condition is reasonable and necessary in protecting the character of the area. The removal of the condition, or its alteration to restrict the occupation of the property only to persons in need of personal care by way of supported living would conflict with policies T01 and T02 of the TLP which both seek to ensure the retention of tourist accommodation to sustain the area's tourism offer. It would also fail to accord with Policy SS11 of the TLP which seeks to ensure cohesive, balanced communities.

Living conditions

12. The Government's Technical housing standards¹ advise that a minimum internal floor area for a 1 bedroom unit is 37 square metres. It is not disputed that some of the accommodation will fall some way below this standard. Although the accommodation would not be residential flats available to the general public, I consider it would be important to the wellbeing of the residents that a good standard of accommodation, including the amount of living space, is provided. By failing to meet the requirements of the Government's advice the development would fail to provide accommodation of a satisfactory standard.
13. I note the rooms are unchanged in terms of size from those which have planning permission to be used as holiday accommodation. However there is a clear distinction between the proposed development and holiday accommodation which is only occupied for a short time and not as a person's main place of residence.
14. As such the development would fail to provide satisfactory living conditions for its future occupiers and therefore would conflict with Policy DE3 of the TLP which, among other things, requires development to provide adequate floorspace to provide a good level of amenity. It would also fail to accord with the advice in the Government's Technical housing standards.

Other matters

15. Whilst I recognise the proposed use would generate a number of jobs and would ensure the property is occupied, these factors do not outweigh the adverse effects I have identified above.

Conclusions

16. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed and the condition retained in its original form.

Andrew Owen

INSPECTOR

¹ DCLG. 2015. Technical Housing Standards – nationally described space standard.