



Appeal Decision

Site visit made on 8 November 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2020

Appeal Ref: APP/K1128/W/19/3234073

Lantern Lodge Hotel, Grand View Road, Hope Cove, TQ7 3HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Messrs Bird and Graham against the decision of South Hams District Council.
 - The application Ref 2066/18/FUL, dated 19 June 2018, was refused by notice dated 15 February 2019.
 - The development proposed is demolition of hotel (14 guest bedrooms, 4 staff bedrooms, indoor swimming pool, lounge/bar/dining areas etc) and construction of a mixed-use development of 9 serviced short-term holiday let apartments (providing a total of 15 bedrooms), 1 unit of owner's/managers accommodation and 5 residential apartments.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of hotel (14 guest bedrooms, 4 staff bedrooms, indoor swimming pool, lounge/bar/dining areas etc) and construction of a mixed-use development of 9 serviced short-term holiday let apartments (providing a total of 15 bedrooms), 1 unit of owner's/managers accommodation and 5 residential apartments at Lantern Lodge Hotel, Grand View Road, Hope Cove, TQ7 3HE in accordance with the terms of the application Ref 2066/18/FUL, dated 19 June 2018, subject to the schedule of conditions attached to this decision.

Procedural Matters

2. The National Planning Policy Framework was revised on 19 February 2019 (the Framework). I have taken the Framework into account as part of the determination of this appeal.
3. The Plymouth and South West Devon Joint Local Plan 2014-2034 (the 'JLP') was adopted on 26 March 2019. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis.
4. The appellant submitted amended plans part way through the determination of the planning application. The amendments reduced the number of bedrooms within the serviced short-term holiday let apartments from 16 to 15. The amended plans were subject to further consultation and publicity. The description of development given on the Council's decision notice accurately reflects these amendments and I have therefore used this description within my formal decision and the banner heading above. For the avoidance of doubt, I have determined the appeal on the basis of the amended plans.

Background

5. Following the adoption of the JLP, the Council state that they are now able to demonstrate a five-year supply of deliverable housing sites. The Council's current housing land supply position has not been disputed by the appellant. Consequently, the presumption in favour of sustainable development contained in paragraph 11(d) of the Framework is not engaged.
6. In respect of the location of the development, the Council's officer report states that *"the site is a brownfield site within the settlement of Hope Cove where the principle of development is acceptable subject to all other material planning considerations."* However, the Council's assessment was based on the previous development plan, which has been replaced by the JLP. Following the adoption of the JLP, the local planning policy context has changed, and Hope Cove no longer has an identified settlement boundary. Accordingly, I have assessed the proposal against the current development plan as part of my decision. This matter forms a main issue, as set out below.

Main Issues

7. The main issues are:
 - whether the proposed development would provide a suitable and accessible location for housing related development;
 - the effect of the development upon the character and appearance of the area, including whether the proposal conserves or enhances the landscape and scenic beauty of the South Devon Area of Outstanding Natural Beauty and the special character of the Heritage Coast;
 - the effect of the development upon highway safety, including whether the proposal provides an appropriate amount of vehicle parking; and
 - the effect of the development upon the living conditions of the neighbouring occupiers of Cove House, Grand View Road in respect of overlooking and Cliff House, Grand View Road in respect of outlook and overlooking.

Reasons

Site and proposal

8. The appeal site is located at the western end of Grand View Road, within the village of Hope Cove. It is currently occupied by a large hotel, which operates as a bed and breakfast. The building is two storey and has a hipped to gable roof form with a single storey flat roof extension to the front elevation and several two storey flat roof extensions to the rear. The topography of the land slopes upwards from south to north, and, when viewed from the street, the northern section of the building appears to be cut into the landscape. To the rear of the building there is an existing car park, which provides off-street parking for guests of the bed and breakfast.
9. It is proposed to demolish the existing building and erect a mixed-use development comprising of nine serviced short-term holiday let apartments (providing a total of fifteen bedrooms), one unit of owner's/managers accommodation and five open-market residential apartments. There would also

be a single storey building near to the site entrance, which would be used as an office, refuse store and plant room.

Location of development

10. Policy TTV1 of the JLP sets out the Council's development strategy across the Thriving Towns and Villages Policy Area. The policy supports development which accords with the Council's settlement hierarchy of (1) Main Towns, (2) Smaller Towns and Key Villages, (3) Sustainable Villages and (4) Smaller Villages, Hamlets and the Countryside.
11. Paragraphs 5.8-5.10 of the supporting text to Policy TTV1 of the JLP identify the 'Main Towns', 'Smaller Towns and Key Villages' and 'Sustainable Villages' within the Thriving Towns and Villages Policy Area. However, Smaller Villages and Hamlets are not identified as part of Policy TTV1.
12. The settlement of Hove Cove is not identified as a 'Main Town', 'Smaller Town', 'Key Village' or 'Sustainable Village' within the Council's Thriving Towns and Villages Policy Area. Consequently, for the purposes of Policy TTV1 of the JLP, the appeal site is located within the fourth tier of the Council's settlement hierarchy, which relates to Smaller Villages, Hamlets and the Countryside.
13. In respect of development within the Smaller Villages, Hamlets and the Countryside, Policy TTV1 (4) states that *'development will be permitted only if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and SPT2) including as provided for in Policies TTV26 and TTV27'*.
14. Policy TTV26 of the JLP sets out how the Council will manage development in the countryside, whilst Policy TTV27 of the JLP aims to meet local housing needs in rural areas, such as affordable housing for local people, through the development of exception sites. In this instance, the proposal relates to a mixed-use development, which includes five open market residential apartments, within an existing small village and thus Policies TTV26 and TTV27 of the JLP are not relevant to the determination of this appeal.
15. Policy STP1 of the JLP relates to the delivery of sustainable development over the Plan period and sets out how development and change will be managed in accordance with the Council's overarching principles in relation to the delivery of a sustainable economy, sustainable society and sustainable environment. Policy STP2 of the JLP details a number of principles of sustainable linked neighbourhoods and sustainable rural communities.
16. Hove Cove is a small village, which has a mix of local services, including a post office and general store, a public house, a café and two churches. On my site visit, I noted that the local services and facilities that are situated within the centre of the village were located approximately 200 metres from the appeal site and accessible on foot via two dedicated pedestrian routes. The pedestrian route along the South West Coast Path is stepped and could be difficult to use by those with mobility issues. However, the public footpath accessed from Grand View Road is laid to tarmac and step-free. Whilst the footpath does not feature street lighting, it is located immediately adjacent to several residential dwellings, which provide natural surveillance and a degree of secondary lighting. Consequently, I am satisfied that the existing pedestrian routes, especially the public footpath accessed via Grand View Road, would enable

- occupiers of the proposed development to walk to the local services and facilities within Hove Cove. As such, there would not be a reliance on the private motor vehicle for most local journeys.
17. In terms of public transport options, the appellant explains that Hove Cove is served by several bus routes which link the village to other settlements in the wider local area, including Kingsbridge and Marlborough, where future occupiers of the proposed development would be able to access a larger range of services and facilities including a village hall, primary school, secondary school and a supermarket.
18. The Council do not dispute that the existing public transport options provide a suitable means of accessing local services and facilities within the wider area. Therefore, based on the evidence before me, I am satisfied that bus services within Hove Cove would provide occupiers of the proposed development with a suitable and alternative means to access local services and facilities within the wider area. Consequently, I conclude that the existing bus services would provide an attractive alternative to the use of the private motor vehicle for most journeys.
19. For the reasons set out above, I am satisfied that the occupiers of the proposed development would have reasonable access to a range of local services and facilities to meet most of their daily needs within Hove Cove and the wider local area, which could be accessed either by walking or via public transport. The use of the local services and facilities by occupiers of the proposed development would help to maintain, and may enhance, the vitality and viability of the services and facilities.
20. Consequently, I conclude that the proposal would provide a suitable and accessible location for housing related development. As such, the proposal would accord with Policy TTV1(4) of the JLP, which requires residential development located within the fourth tier of the Council's settlement hierarchy to support the principles of sustainable development and sustainable communities in accordance with Policies SPT1 and SPT2 of the JLP. In addition, the proposal would accord with Policy TTV2 of the JLP which promotes the delivery of sustainable development in the Thriving Towns and Villages Policy Area, and, amongst other things, seeks to locate housing where it will enhance or maintain the vitality of rural communities.
21. To this regard, the proposal would be consistent with paragraph 78 of the Framework, which states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

Character and appearance

22. The appeal site is located within the South Devon Area of Outstanding Natural Beauty (the 'AONB') and an area of Heritage Coast. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. In addition, it states that the scale and extent of development within these designated areas should be limited, and, that planning permission should be refused for major development other than in exceptional circumstances.

23. Footnote 55 of the Framework states that whether a proposal is '*major development*' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. In this instance, the main parties agree that the proposal is not a 'major development' because it would be a replacement building located within the context of an existing settlement. Based on the evidence before me, and my assessment of the proposal, I have no reason to disagree with the parties on this matter.
24. The Council have expressed concern that the massing and design of the proposal, including the introduction of glazing within the roof form to provide three floors of accommodation, would not be reflective of the area's prevailing local character and would result in visual intrusion, including light spill, within the wider landscape.
25. The Council have drawn my attention to their landscape character assessment for the Plan area. Whilst I have not been provided with the full details of the document, the Council's evidence states that the appeal site lies within 'Coastal Slopes and Combes' character type. Within this area, the landscape is of a high-quality and consists of an undeveloped coastal landscape, with presence of some historic settlements 'nestled' in coombes, of which Hope Cove is one. Within existing settlements, to protect the landscape, the Council state that new development should utilise the same materials and building styles, as existing buildings, wherever possible.
26. Whilst the proposal would be constructed as one building, it has been designed to appear as three adjacent buildings, which are linked by inset glazed sections. The glazed sections would break up the visual mass of the building and add interest to the elevations. In terms of design, the proposal would have a hipped to gable roof form, which would be sympathetic to the local character and reflective of the existing building at the appeal site. Externally, the proposal would incorporate a high-quality material palette, which includes traditional materials that are common within the local area, such as natural slate hanging and stonework on the ground floor level of the seaward facing elevation.
27. In terms of the footprint of the building, whilst the proposed building would be wider than the existing hotel, I note that the proposal would retain a clear visual break between the appeal building and the neighbouring properties to the north and south of the site, and, thus the additional width would not have an unduly harmful impact upon the character and appearance of the area. Furthermore, the proposal would result in the removal of the existing single storey flat roof extension to the front elevation, which protrudes beyond the existing building line and is a prominent feature when viewed from the South West Coast Path. This would be a positive benefit of the proposal.
28. The ridgeline of the proposed building would be higher than the existing hotel. However, the increase in height would not be to a significant degree and the proposal would remain lower than the neighbouring property to the north, as per the existing arrangement. In addition, the northern end of the proposed building would have a hipped roof form, which would reduce the impact of the additional massing.
29. When viewed from the wider context, I note that the proposed development has been designed to take account of the topography of the appeal site, and, in

doing so, the ridgeline of the building would step down towards the southern boundary of the site. In addition, the second-floor windows on the front elevation would be recessed into the building below an overhanging roof structure. Owing to the site levels, stepped roof design and recessed nature of the second-floor windows, I consider that the second-floor accommodation would not be a prominent feature within the wider landscape. Consequently, I consider that the proposal would successfully assimilate into the built-up area of Hope Cove by nestling into the existing coastline, as per the existing hotel and neighbouring properties. As such, the development would have a neutral impact upon and thus conserves the natural beauty of the AONB. To this regard, I note that the Council's landscape officer concluded that the replacement building would not be overly prominent or harmful the area's character.

30. In terms of light spill, I note that the second-floor apex windows on the front elevation would be partially screened with louvres, and this design feature, in combination with the recessed nature of the windows, would reduce light spillage within the wider landscape. In addition, I am not persuaded by the Council's argument that the shape of the windows would prevent the easy use of blinds/curtains for occupants. In any event, the appeal site is located within an existing built up area where the use of internal lighting is a common feature, including the existing hotel.
31. For the collective reasons set out above, I conclude that the proposal would accord with Policies DEV10, DEV20 and DEV23 of the JLP, which collectively require housing developments to be of a high-quality design; to contribute positively to the townscape and landscape context; and to avoid significant and adverse landscape or visual impacts. In addition, the proposal would accord with Policy DEV25 of the JLP, which requires development proposals to conserve and enhance the natural beauty of protected landscapes, including the South Devon AONB. For this reason, the proposal would also accord with Policy DEV24 of the JLP, which requires development proposals to avoid detrimental effects on the unspoilt character, appearance and tranquillity of the Heritage Coast.

Living conditions of neighbouring occupiers

32. To the rear of the appeal site there is the neighbouring residential property, known as Cove House. The property is a chalet bungalow and has a large rear garden, which is situated adjacent to the existing hotel car park. The submitted plans show that glazing would be installed within the rear facing elevation of the proposed development. The windows would serve habitable rooms set over three floors.
33. Whilst I acknowledge that the development would introduce window openings at second floor level, the number of openings would be limited, and given the degree to which the existing windows and an upper floor terrace on the rear elevation of the hotel overlook the neighbouring property and its rear garden, in addition to the proposed separation distance between the two properties, which would prevent short distance views, I consider that the proposed development would not result in a significant loss of privacy for the neighbouring occupiers of Cove House.
34. To the side of the appeal site there is a two-storey residential dwelling, known as Cliff House. The property has windows on the side elevation facing the

appeal site and moderately sized front and rear garden areas, which are situated adjacent to the boundary of the appeal site.

35. The proposal would reduce the separation distance between the proposed building and the neighbouring property, when compared to the existing site layout. In addition, the proposed development would be taller than the existing building. However, a separation distance of approximately six metres would be retained and the pitched roof form of the proposed building would slope away from the neighbouring property.
36. Given the above, I consider that the proposed development would not have a dominating effect when viewed by the neighbouring occupiers from the side facing windows and from the front and rear garden areas. Consequently, the development would not have an oppressive and overbearing impact upon the outlook of the occupiers of Cliff House.
37. The Council have also expressed concerns that the first-floor balconies on the front elevation of the proposed development would permit harmful levels of overlooking into the front garden of the neighbouring property. However, the proposed elevations show that the first-floor terrace to Unit 3 would have a privacy screen on the southern end, which would reduce the extent of any overlooking towards Cliff House to a significant degree. In addition to the above, I note that the existing hotel has side facing windows, which permit direct overlooking into the front garden of the neighbouring property, and, thus there is already a degree of mutual overlooking, albeit from a further distance. For these reasons, I consider that the proposed development would not result in a significant loss of privacy for the neighbouring occupiers of Cliff House.
38. For the collective reasons outlined above, I conclude that the proposed development would not cause significant and demonstrable harm to the living conditions of the occupiers of Cove House, Grand View Road in respect of overlooking and Cliff House, Grand View Road in respect of outlook and overlooking. As such, the proposal would accord with Policy DEV1 of the JLP, insofar that it requires new development to protect the amenity of existing residents.

Highway safety

39. The Council explain that they do not have any adopted parking standards. However, where necessary, the Council will seek guidance from the Local Highway Authority (LHA) in relation to parking requirements. In this instance, the LHA have advised that the proposal would generate a requirement for 25 off-street parking spaces. This assessment is based on the mix of unit types and the number of bedrooms to be provided.
40. The proposal would provide 26 off-street parking spaces to the rear of the building for occupiers of the mixed-use development. The parking area would be accessed from the southern boundary of the site, via Grand View Road, in a similar manner to the existing car park
41. The Council acknowledge that the proposal exceeds the LHA's parking requirements. However, they argue that the proposal should provide additional off-street parking for staff associated with the short-term holiday lets, such as cleaners, maintenance workers, laundry services and grocery deliveries. As such, the Council contend that the proposal would result in overspill parking on

- the highway, which would exacerbate existing on-street parking congestion in the area.
42. In addition to the above, the Council have expressed concerns that occupiers of the serviced apartments may store boats, or other similar items with the car park, which would reduce the overall number of available spaces. Owing to the appeal site's coastal location, I understand the Council's concerns. However, I see no reason why a planning condition could not be imposed to restrict the use of the car park.
43. The appeal is supported by a transport statement, which explains that the amount of car parking has been calculated by assessing the likely number of vehicles movements associated with the proposed development. This assessment includes an analysis of car ownership levels in the local area based on data from the most recent census. The statement explains that 1.5 parking spaces have been provided per each of the short-term holiday let apartments and 2 parking spaces have been provided for the other units. The LHA have confirmed that the amount of parking provision would be acceptable.
44. Furthermore, the transport statement states that the proposed development would generate a reduction in the number of daily vehicle movements on the local highway network, when compared to the existing lawful hotel use, which provides only approximately 14 car parking spaces laid out in an informal manner. The Council have not disputed this matter.
45. The proposal would provide 26 car parking spaces, which would exceed the LHA's requirements by 1 space. In addition, I note that as part of the development, the holiday let apartments would be managed by a site manager, who would monitor the number of cars visiting the site and be able to advise guests of the number of spaces available prior to arriving to their arrival, which would reduce parking stress.
46. In terms of staff parking, the evidence before me indicates this has incorporated into the overall parking requirement, as set out by the LHA. In any event, I consider that many of the staffing operations referred to by the Council, such as cleaning and maintenance, would typically be undertaken when the holiday let apartments would be vacant. Therefore, I see no reason why the staff could not park within the car parking spaces associated with the vacant holiday let apartment(s).
47. In addition, I note that the proposal would be likely to generate less vehicle movements than the existing hotel use, whilst providing a significant amount of additional off-street parking. Therefore, even if I were to accept that the proposal would generate a degree of on-street parking, I am not persuaded that this would not exacerbate existing on-street parking congestion in the area.
48. In terms of delivery vehicles, the appellant's transport statement explains that the proposed level of goods vehicles would likely be fewer in number than the existing hotel use, as occupants of the holiday lets would be 'self-sufficient' in terms of catering and amenity, whereas the hotel use would be reliant on deliveries of food and linen on a regular basis. In any event, the statement demonstrates that vehicles up to eight metres in length would be able to access and egress the site in a safe manner.

49. For the reasons set out above, I conclude that the proposal would provide an appropriate amount of off-street vehicle parking for occupiers of the proposed development. Therefore, the proposal would preserve highway safety. As such, the proposal would accord with Policy DEV29 of the JLP which requires development to contribute positively to the achievement of a high quality, effective and safe transport system in the Plan Area, including through the provision of a sufficient amount of car parking in order to protect the amenity of surrounding residential areas and ensure safety of the highway network.

Planning obligations and S106 agreement

50. The appellant has submitted two completed section 106 legal agreements during the appeal process. The first legal agreement is a completed unilateral undertaking, which secures a financial contribution towards improving open space, sport and recreation facilities within Hove Cope. The second legal agreement is a completed bilateral undertaking between the appellant and Devon County Council, which secures a financial contribution towards primary and secondary education provision.
51. The Council's solicitor initially expressed concerns that several of the definitions within the respective legal agreements, which related to the trigger point for the payment of the respective financial contributions, were imprecise and failed to take account of the fact that several of the units would be short term holiday let apartments. In response, the appellant submitted a deed of variation legal agreement which has the effect of amending the disputed definitions. Consequently, the Council have confirmed that the respective legal agreements are now acceptable.
52. The Council have drawn my attention to the ownership of the appeal site. To this regard, I note that the Owner of the appeal site does not own all of the land that is shown edged red on the site plan that accompanied the planning application. The evidence before me indicates that there is a small part of the land in the north-west corner that is unregistered land. In respect of the proposed development, the area of unregistered land would form a small part of the proposed communal garden to the front of the site, whereas the new building would be constructed solely on land within the Owner's control. As such, the development could not be carried out without involving the main part of the site, which is within the appellant's ownership and bound by the planning obligations. As such, this is not a determinative point in this appeal.
53. Having regard to Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and paragraph 56 of the Framework, I am satisfied, that the planning obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

Other Matters

54. Concerns have been expressed by interested parties about the loss of the existing hotel use. The original application was supported by a viability report, which sought to demonstrate that the existing bed and breakfast business is not viable. The report was reviewed by the Council and the conclusions were considered to be acceptable. Substantive evidence is not before me that demonstrates that I should not rely on the conclusions of the report. Notwithstanding the above, I note that the proposed development includes 9

serviced short-term holiday let apartments, which would provide a total of 15 bedrooms. Therefore, the appeal site would still provide tourist accommodation, which would benefit the local economy.

55. Interested parties argue that the proposal would damage the road surface of Grand View Road and cause cliff instability. However, no substantive evidence has been put forward to demonstrate that this would be the case. In addition, no such concerns have been expressed by the Council.
56. An Ecological Appraisal was submitted with the application which sets out enhancement measures that are to be undertaken as part of the development and could be secured by a planning condition. Substantive evidence is not before me that demonstrates I should not rely on the conclusions of the report, which was prepared by a suitably qualified ecologist and reviewed by the Council.
57. Concerns have been expressed about whether or not the existing sewerage network has capacity to deal with the proposed development. To this regard, I note that South West Water were consulted as part of the original application and raised no concerns.
58. Local residents have expressed concern that the proposed development does not provide any affordable housing, and that the open market units could be purchased as second homes. However, I have not been referred to any local policies which would require the mixed-use proposal to provide affordable housing provision, nor to control the occupancy of the open market units.
59. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conditions

60. The Council have suggested 19 conditions which I have considered against the tests as laid out in paragraph 55 of the Framework. In the interests of consistency and precision, I have amended the wording of some of the conditions.
61. However, I have not imposed the suggested condition which relates to the submission of a travel plan in respect of staff travel. I have found that the proposal would provide an appropriate amount of off-street parking, and, result in less vehicle movements than the existing lawful use. Therefore, I consider that the imposition of such a condition would be unreasonable.
62. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
63. In the interests of the character and appearance of the area, it is necessary to impose conditions relating to materials, landscaping, site levels and exterior lighting. To ensure that the character and appearance of the area is preserved, it is necessary for the landscaping details, to include a landscape management plan.

64. In the interest of ecology, as per the submitted ecology report, it is necessary to impose a condition to secure the recommended biodiversity enhancements in respect of protected species.
65. In the interests of highway safety, it is necessary to impose a condition to ensure the turning and parking areas are constructed, prior to the occupation of the proposed development and retained as such thereafter. As part of the condition, the storage of boats and other similar items within the turning and parking areas is prohibited.
66. Due to the proximity of neighbouring residents, it is necessary to impose a condition requiring a Construction Method Statement (CMP) to be agreed with the Council and the development constructed accordingly. Whilst I acknowledge that a CMP was submitted with the original application, the full details were not agreed by the Council. Therefore, to ensure that interests of neighbouring residents are safeguarded during the entire demolition and construction period, it is necessary for the details of the CMP to be agreed prior to the commencement of development.
67. Similarly, to safeguard the living conditions of neighbouring occupiers, it is necessary to impose a condition requiring that the balcony screening to Unit 3 is constructed prior to the first occupation of the property and retained as such thereafter.
68. Due to previous land uses at the appeal site, it is necessary to impose a condition relating to the investigation, and if required, the remediation of unexpected contaminated land that may be uncovered during the construction of the development.
69. Due to known surface flooding issues in the local area, I have imposed conditions relating to surface water drainage. To ensure that such risks are appropriately managed, it is necessary for these details to be agreed prior to the commencement of development.
70. To encourage the use of more sustainable modes of transport, and to reduce the effects of pollution from motorised vehicles, it is necessary to impose a condition relating to the provision of electric vehicle charging points.
71. Finally, I have imposed occupancy conditions in relation to the serviced short-term holiday let apartments and the owner's/managers accommodation. The Council contend that the occupancy of the units should be secured by a legal agreement. However, I see no reason why the use of the units could not be controlled by a planning condition. Furthermore, I note that the Planning Practice Guidance¹ advises that the local planning authority should use a condition rather than seeking to deal with a particular matter by means of a planning obligation, when it is possible to overcome a planning objection to a development proposal equally well by imposing a condition on the planning permission.

¹ Planning Practice Guidance – Paragraph: 011 Reference ID: 21a-011-20140306 (Revision date: 06 03 2014)

Conclusion

72. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Christopher Miell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan 00

LL-01/100 Rev C

LL-01/101 Rev C

LL-01/102 Rev D

LL-01/103 Rev C

LL-01/104 Rev C

LL-01/105 Rev B

LL-01/106 Rev B

LL-01/107 Rev B

LL-01/108 Rev B

LL-01/109 Rev B

LL-01/110 Rev B

LL-01/111 Rev B

LL-01/112 Rev B

CD/C/553-01C

- 3) Notwithstanding any details shown on the approved plans, prior to the erection of development above slab level, full details of all external facing materials, including balcony balustrading shall be submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details. The approved balcony balustrading to Unit 3 shall be constructed prior to the first occupation of the property and retained as such thereafter.
- 4) Prior to the erection of development above slab level, full details of a minimum of 10 integral nest sites (swift bricks) to be provided within the site shall be submitted to and agreed in writing by the local planning authority. The nest sites shall be provided in accordance with the approved details prior to the occupation of the building and shall be retained as such thereafter.
- 5) No site clearance, preparatory work or development shall take place until a scheme showing how the existing hedges and/or trees will be protected throughout the course of the development has been submitted to and approved in writing by the local planning authority. The details shall include a tree and hedge protection plan, in accordance with BS:5837:2010, which shall include the precise location and design details for the erection of protective barriers and any other physical protection measures and a method statement in relation to construction operations in accordance with paragraph 7.2 of the British Standard. Development of each phase shall be carried out in accordance with the approved details.
- 6) No part of the development hereby permitted shall be first occupied until a turning area and parking spaces have been constructed in accordance with the details shown on the approved plans. The car parking and turning areas

shall be retained as such thereafter and shall not be used for boat, trailer, caravan or similar types of non-car storage.

- 7) No development shall commence above ground level until full details of both hard and soft landscaping works which shall include detailed landscape designs and specifications for the site shall be submitted to and approved in writing by the local planning authority. These details shall include:
- a) Full details of planting plans and written specifications, including cultivation proposals for maintenance and management associated with plant and grass establishment, details of the mix, size, distribution, density and levels of all trees/hedges/shrubs to be planted and the proposed time of planting. The planting plan shall use botanic names to avoid misinterpretation. The plans should include a full schedule of plants;
 - b) A specification for the establishment of trees within hard landscaped areas including details of space standards;
 - c) Details of ground preparation prior to importation of topsoil, including decompaction of material and removal of any debris including plastic, wood, rock and stone greater in size than 50mm in any dimension;
 - d) Details, including design and materials, of ancillary structures such as bin stores and signage, gates, sculptural features, etc;
 - e) Details of all boundary treatments;
 - f) Details of hard landscape materials including samples if requested by the local planning authority; and
 - g) A timetable for the implementation of all hard and soft landscape treatment.

All hard-surfacing, planting, seeding or turfing comprised in the approved details of landscaping, shall be carried out in accordance with the approved timetable for implementation. Any trees or plants which, within a period of 5 years from the completion of any phase of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 8) No works to or removal of boundary vegetation shall take place until a landscape management plan has been submitted to and approved in writing by the local planning authority. Thereafter the landscape management plan shall be strictly adhered to for the lifetime of the development.
- 9) Prior to occupation of the first dwelling, if exterior lighting is to be provided, a detailed outdoor lighting scheme shall be submitted to and approved in writing by the local planning authority. Such a scheme shall specify the method of lighting (if any) (including details of the type of lights, orientation/angle of the luminaries, the spacing and height of lighting columns/fixings), the extent/levels of illumination over the site and on adjacent land through the submission of a isolux contour plan and measures to be taken to contain light within the curtilage of the site. The scheme shall be implemented in accordance with approved details and shall be retained as such thereafter.

- 10) Notwithstanding the submitted Construction Management Plan by Trinity Square (Project ID Number – C17-007), no development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall provide for:
- a) the timetable of the works;
 - b) daily hours of construction;
 - c) any road closure;
 - d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 08:00 and 18:00 on Mondays to Friday, 08:00 to 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays;
 - e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the local planning authority;
 - h) hours during which no construction traffic will be present at the site;
 - i) the means of enclosure of the site during construction works;
 - j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site;
 - k) details of wheel washing facilities and obligations;
 - l) The proposed route of all construction traffic exceeding 7.5 tonnes;
 - m) Details of the amount and location of construction worker parking;
 - n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
 - o) Details of noise impacts and controls; and
 - p) Dust impact assessment and proposed controls.

The relevant works shall be carried out in accordance with the approved details.

- 11) No development shall commence above ground level until full details of proposed finished levels of all new buildings and the parking and landscaped areas have been submitted to and approved by the local planning authority. The development shall take place in accordance with the approved details.
- 12) Units 6 – 9 and 11 – 15, as identified on the approved plans, inclusive of the apartments hereby permitted shall be used solely as holiday letting accommodation and shall not be occupied as any person's sole or main place of residence. The owners/operators shall maintain an up- to-date register of the names and main home addresses of all owners/occupiers of the holiday unit(s), and shall make this information available at all reasonable times to the local planning authority.

- 13) Unit 10, as identified on the approved plans, shall only be occupied by a person(s) who sole or main employment is related to the management of the nine holiday letting units hereby approved, their spouse and any dependants and to no other person(s).
- 14) If, during the course of development, any contamination is found which has not been previously identified, all work shall be suspended until the developer has submitted, and obtained written approval from the local planning authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

- 15) Prior to the erection of development above slab level, full details of proposed electric vehicle charging points shall be submitted to and approved by the local planning authority. These details shall include the location, number and power rating of the charging points. The relevant works shall be carried out in accordance with the approved details and available for use prior to the first occupation of the development hereby permitted. The electric vehicle charging points shall be retained as such thereafter.
- 16) No site clearance, preparatory work or development shall take place until a programme of percolation tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the local planning authority, in consultation with Devon County Council as the lead local flood authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces.
- 17) Notwithstanding the submitted drainage layout (dwg no: 2018-229-202), no site clearance, preparatory work or development shall take place until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the local planning authority, in consultation with Devon County Council as the lead local flood authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Surface Water Drainage Strategy dated August 2018 Project Number 0318 Rev A. The details shall include a management and maintenance plan for the lifetime of the development and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 18) No site clearance, preparatory work or development shall take place until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the local planning authority, in consultation with Devon County Council as the lead local flood authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site. The relevant works shall be carried out in accordance with the approved details.

*****End of Conditions*****