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Application No: Y19/0967/FH

Location of Site: Flat 4, 10 Trinity Crescent, Folkestone, Kent, CT20 2ET

Development: Section 73 Application for removal of Condition 2 of Planning Permission 83/1121/SH (Conversion of hotel into 15 self-contained and 2 non-self-contained self-catering studio holiday apartments) to allow the remaining self-contained holiday flats on the first and second floors of no. 10 Trinity Crescent, to be used as permanent self-contained apartments.

Applicant: Kent Rooms

Agent: Mr. Roger Joyce

Officer Contact: Robert Allan

SUMMARY

The proposal seeks to vary a planning condition to allow unrestricted occupation the remaining self-contained holiday flats on the first and second floors of no. 10 Trinity Crescent, to be used as permanent self-contained apartments.

Whilst some supporting evidence has been supplied that augments the previous scheme, Y19/0967/FH, this is still considered to fall short of the standard required to meet the exemption criteria set out within policy E4 of the Places and Policies Local Plan. As such, the loss of visitor accommodation has not been justified and would impact upon the local tourism offering, contrary to emerging and saved policies which seek to protect tourism-related accommodation.

RECOMMENDATION:

That planning permission be refused for the reason set out at the end of the report.

1. INTRODUCTION

1.1. The application is reported to Committee at the request of Cllr Laura Davison.

2. SITE AND SURROUNDINGS

2.1. The application site is located within the defined settlement boundary of Folkestone and also within the Folkestone Leas & Bayle Conservation Area. The application property, 10 Trinity Crescent, is located at the junction of Trinity Crescent and Sandgate Road and is an imposing 5 storey building of Victorian era, which has been sub-divided into flats.

2.2. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 This application seeks a variation of condition 2 of application 83/1121/SH to allow for the permanent occupation of the remaining self-contained holiday flats on the first and second floors of no. 10 Trinity Crescent, to be used as permanent self-contained apartments. As before (Y18/1418/FH) the proposal does not include any external works to the building.
- 3.2 The application includes an updated Design and Access Statement, with the only additional information supplied over and above the previously-refused scheme being a letter from a property agent, Motis, confirming the dates of marketing.

4. RELEVANT PLANNING HISTORY

- 4.1 Numbers 8 and 10 Trinity Crescent together have been operating as a holiday-let business under the name 'Meyrick Court'. Conversion of no.8 to self-contained apartments has been ongoing for some time following the grant of planning permission under reference Y14/1301/SH (Conversion from existing holiday flats to create five self-contained flats together with internal alterations, reinstatement of front door and reinstatement of internal staircase to facilitate conversion.)
- 4.2 No.10 has been the subject of a certificate of lawful development (ref: Y15/0442/SH) for the use of a flat as unrestricted C3 use (residential) following a continuous period in excess of 10 years (therefore immune from enforcement) in breach of condition 2 of planning permission 83/1121/SH (time limit on occupation period). No.10 has also been the subject of planning permission Y15/1069/SH allowing full residential use of the basement flats.
- 4.3 Condition 2 of planning permission 83/1121/SH ('Conversion of hotel into 14 self-contained and 2 non self-contained self-catering studio holiday apartments', Approved with conditions 5th December 1983) reads: "No person or persons shall occupy any of the flats available for letting longer than a period of two months within any period of six months."
- 4.4 Application Y18/1418/FH for the variation of condition 2 of application 83/1121/SH to allow permanent occupation of a ground floor flat following the amalgamation of two existing ground floor studio flats, was refused on 17.04.2019 for the following reason:

The application includes insufficient evidence to justify the proposed loss of visitor accommodation in an area that is popular for tourist activity, and has failed to meet the exemption criteria of emerging policy E4 of the Places & Policies Local Plan and saved policy TM2 of the Shepway District Local Plan Review. As a result, the proposed loss of visitor accommodation has not been justified, would impact upon the local economy and is considered to be contrary to emerging and saved policies which seek to protect tourism-related accommodation and the principle of the proposal is unacceptable.

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4.5 Application Y19/0967/FH sought the variation of condition 2 of application 83/1121/SH to allow permanent occupation of a ground floor flat for the manager following the amalgamation of two existing ground floor studio flats and was a resubmission of Y18/1418/FH. This was permitted by Members at Planning and Licensing Committee on the 28 July 2020, subject to conditions that required:

- i. Ground floor units 8 & 9 to be occupied by a person managing / occupying the holiday lets, with the occupation ceasing three years of the date of the permission;
- ii. First and second floor flats to be occupied only for a period of two months within any period of six months;
- iii. Prior to first occupation of units 8 & 9 as a managers / operators flat the remaining flats located on the first and second floors shall be actively marketed for rent as holiday accommodation through a range of means to include, as a minimum, a website promoting the booking of the accommodation to include an online booking system (or a link to another website with an online booking system), email address, telephone contact and a range of photographs showing the accommodation on offer and the use of an independent holiday accommodation website(s), unless alternative marketing arrangements are previously agreed in writing with the Local Planning Authority.

4.6 The applicant has appealed conditions 1 and 2 with the Planning Inspectorate (appeal reference APP/L2250/W/20/3263547) as they feel the terms of these are unreasonable. This appeal is ongoing.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: no objection

Local Residents Comments

5.2 13 neighbours directly consulted. One letter of objection, no letters of support received and no letters neither supporting nor objecting to the application.

5.3 I have read the letter received. The key issues are summarised below:

Objection

- Concern that this is creating a 'back door' to a slum landlord situation for an indeterminate number of people with inadequate management leading to anti-social behaviour that impacts upon other residents;

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- If it cannot be run as a holiday business, it should be turned into residential apartment accommodation with adequate space and facilities for residents.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

- HB1 - Quality Places through Design
- HB3 - Internal and External Space Standards
- E4 - Hotels and Guest Houses
- T2 - Parking Standards
- T5 - Cycle Parking

Core Strategy Local Plan (2013)

- DSD - Delivering Sustainable Development
- SS1 - District Spatial Strategy
- CSD3 - Rural and Tourism Development
- CSD6 - Central Folkestone Strategy

Core Strategy Review Submission draft (2019)

- SS1 - District Spatial Strategy
- CSD3 - Rural and Tourism Development
- CSD6 - Central Folkestone Strategy

6.4 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF) 2019

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development and sustainability
- b) Residential amenity
- c) Highways
- d) Other issues

a) Principle of development and sustainability

7.2 The main consideration in the determination of this application is the principle of the proposed variation of condition to allow for the permanent residential use of the flats on the first and second floor within the property.

7.3 Policy E4 states that applications for the change of use or redevelopment of hotels, guest houses or self-catering units which would result in a loss of visitor accommodation will only be permitted where:

1. *The standard and type of accommodation that is, or could be provided at reasonable cost, is unsuited to meet visitor demands; or*

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2. *In the case of hotels and guest houses, the premises or site are poorly located in relation to the areas of main tourist activity or tourist routes, and uses in the immediate vicinity are predominantly unrelated to tourism or incompatible with the continued tourist use of the premises; and*

3. *In addition to the above, it has been demonstrated that the business has been marketed at a reasonable rate and for a period of 12 months.*

7.4 The application incorporates headline figures provided by Capital Accountants in a letter dated June 2019, an updated Design and Access Statement that reflects the most recent decision, a letter from a property agent, Reed Rains, dated June 2019, outlining their enquiries relating to the sale of the property, and a letter from Motis Estates dated July 2020, stating that marketing of the property began on 18 March 2020.

7.5 In looking at the criteria of the policy, no information has been submitted to suggest that 'the standard and type of accommodation that is, or could be provided at reasonable cost, is unsuited to meet visitor demands' although within the Design Statement, the agent has included a statement from the Chairman of the Folkestone Hoteliers Association that refers to broad trends in demand, concluding that the district "still has many low quality guest accommodation providers and coach party hotels but in my opinion they are a dying breed and these properties need to be either upgraded such as Langhorne to 10 to 12 or converted to quality flats". Whilst this comment is noted, one of the options identified within it is for the upgrading of existing accommodation to meet visitor expectations, which has not been explored or discounted within the supporting information. To accept the loss of tourism accommodation would deny the option of subsequent owners investing in the facility and no evidence to suggest that the business could not be viable under different management with suitable investment and marketing carried out, has been provided. As such, it is considered that the proposal fails to meet exemption criteria 1 of policy E4.

7.6 Turning to exemption criteria 2 of policy E4, it is considered that the site is not poorly located in relation to the area of main tourist activity given its proximity and connections to The Leas and Folkestone Town Centre and tourist activity is notably present in the immediate vicinity. The information submitted suggests that the surrounding residential uses are not compatible with tourism uses, but this is not considered a reasonable position to defend, given the character of both are virtually identical and the numerous tourism facilities that are found in the immediate area. Consequently, it is considered that the proposal fails to meet exemption criteria 2 of policy E4.

7.7 With regard to exemption criteria 3, evidence has been provided that the tourism-related business has been marketed for a period of 12 months, with Motis Estates stating that marketing began on 18th March 2020. The Motis website shows the properties are marketed as short term holiday lets, with each floor being sold separately. However, each floor is marketed as a house with studio lets, subsequently stating that the property is 'licenced as a hotel', which is not considered to satisfy the requirements of the policy. Further the stated number of rooms do not match the detail supplied with the application.

Floor	Website	Submitted Plans
Ground	4 bedroom house with 4 self-contained rooms	2 x bedsits shown

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First	3 bedroom house with 3 self-contained rooms	2 x bedsits shown
Second	3 bedroom house with 3 self-contained rooms	1 x flat and 1 x studio flat

The website carries a disclaimer as to the property descriptions and the applicant has been asked to clarify the significant differences.

- 7.8 The letter from Reeds Rains, now two years old, identifies a perceived drop in investor demand for the type of property the application property is currently arranged as, suggesting that self-contained leasehold apartments would be the preferred choice. The website only shows one floor for sale, the ground floor, setting out that this is a four bedroom flat with four private room lets and does not state that the use is as short term holiday lets. This floor doesn't form part of this application.
- 7.9 Within the design and Access Statement, the agent has stated that the owner has utilised a website to market the business (Meyrick Court Holiday Flats). The website provides details of location, cost and a contact telephone number. It is noted that, on the permission granted under reference Y19/0967/FH, a condition requested by Members was imposed requesting active marketing of the business as holiday accommodation to include, as a minimum, a website promoting the booking of the accommodation to include an online booking system (or a link to another website with an online booking system), email address, telephone contact, a range of photographs showing the accommodation on offer and the use of an independent holiday accommodation website. The website falls short of this on several counts, but it must be made clear that the requirements of the condition would only be triggered if the applicant had implemented the permission.
- 7.10 The applicant has noted within the Design Statement that the lack of activity via the website during the last year has been because of the pandemic. This is accepted, but underlines that as the restrictions associated with the global pandemic are lifted, the fortunes of commercial enterprises could reasonably be expected to improve, with the popularity of 'staycations' continuing and the permanent loss of tourism-related uses such as this would be premature.
- 7.11 The current practices at the site include letting units for emergency accommodation (within the terms of the existing condition), which may further impact upon the desirability of the remaining units to potential holidaymakers and also result in the owner not advertising the units for their intended use, as they are occupied. The application therefore fails to meet exemption criteria 3 of policy E4 for these reasons.
- 7.12 Although there is evidence that the properties have been marketed for a period of 12 months, the information within these adverts is contradictory and not considered adequate in terms of addressing the requirements of policy E4. In the terms of the policy, the aim of the adopted local policy is to retain a range of good quality hotel and guest house accommodation in the district, which will appeal to all types of tourist, and resist the loss of visitor accommodation where this would be detrimental to the tourist economy. The proposal to remove the condition would result in the permanent and premature loss of visitor accommodation without sufficient justification, with a consequent detrimental impact upon the available stock of visitor accommodation and the tourist economy, contrary to policy E4 of the Places & Policies Local Plan.

b) Residential amenity

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7.13 The proposal does not include any external alterations and it is considered that there would be no material or discernible net impacts on residential amenity in respect of any overlooking, overbearing presence, overshadowing, or noise and disturbance, in accordance with adopted policy.

7.14 However, the proposal would see the holiday-let restriction of the condition removed, allowing each unit to be used as a self-contained unit of residential accommodation. Consequently, the space standards set out in policy HB3 are relevant. The gross internal area (GIA) is set out below for each unit of self-contained residential accommodation that would be created, alongside the policy requirement:

Floor	Unit of accommodation	GIA of units (sqm)	Policy requirement (sqm)
First	2 x bedsits	30.86 & 31.64	39
Second	1 x flat and 1 x studio flat	59.88 & 18.52	50 (flat) 39

It is evident that, based upon the submitted information, the units proposed (apart from one on the second floor) would be significantly deficient with regard to the internal space standards and would result in a poor standard of accommodation for future occupiers.

7.15 It is also noted that the majority of the units would not have access to any outdoor amenity space. The close proximity to the public open space of The Leas is acknowledged, but is not considered to ameliorate the significant shortfall in the standard of amenity for future occupiers of the proposed units and the proposal would be contrary to policy HB3 and are therefore considered to be unacceptable.

c) Highways

7.16 Current arrangements for parking (on-street) would be acceptable given the proposed changes would not give rise to any additional parking requirement relative to the existing use and the site is considered to be a sustainable location, which benefits from good public transport connections and is acceptable with regard to policy T2.

d) Other Issues

7.17 The current bin storage and collection arrangements would be acceptable to meet the demands of the new 1-bedroom flat following the proposed amalgamation of two studio units.

Environmental Impact Assessment

7.18 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

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- 7.19 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.
- 7.20 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge as it varies a previous planning permission and would not create any additional floor space.

Human Rights

- 7.21 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

- 7.22 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

- 7.23 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

- 8.1 The proposed variation of condition would result in the loss of visitor accommodation in an area that is popular for tourist activity. The application fails to provide sufficient

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evidence to justify this loss or meet the exemption criteria of policy E4 of the Places & Policies Local Plan.

- 8.2 The resultant units of residential accommodation would fall significantly short of the required standards for internal floor area, resulting in sub-standard residential accommodation and would be contrary to Places and Policies Local Plan policy E4.

9. BACKGROUND DOCUMENTS

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be refused for the reasons set out below.

1. The application includes insufficient evidence to justify the proposed loss of visitor accommodation in an area that is popular for tourist activity, and has failed to meet the exemption criteria of policy E4 of the Places & Policies Local Plan. As a result, the proposed loss of visitor accommodation has not been justified, would impact upon the local economy and is considered to be contrary to policy E4 which seeks to protect tourism-related accommodation, making the principle of the proposal unacceptable.
2. The deletion of condition 2 of planning permission reference 83/1121/SH would result in dwellings with internal and external space which fail to meet the minimum standards required by Policy HB3 of the People and Policies Local Plan, amounting to poor quality residential accommodation, the future occupiers of which would benefit from a substandard level of residential amenity and poor living conditions with consequent harm to their health and wellbeing.