

Area North Committee – 26 September 2012

## Officer Report on Planning Application: 12/02759/COU

<b>Proposal :</b>	Change of use of dwelling from C3 (dwelling) to a mixed use of C3 (dwelling) and C1 (accommodation ancillary to hotel) (retrospective) (GR: 345546/117916)
<b>Site Address:</b>	15 Barton Close, Bower Hinton, Martock
<b>Parish:</b>	Martock
<b>MARTOCK Ward (SSDC Members)</b>	Cllr Graham Middleton & Cllr Patrick Palmer
<b>Recommending Case Officer:</b>	Claire Alers-Hankey Tel: 01935 462295 Email: <a href="mailto:claire.alers-hankey@southsomerset.gov.uk">claire.alers-hankey@southsomerset.gov.uk</a>
<b>Target date :</b>	11th September 2012
<b>Applicant :</b>	Mr Thomas Walsh
<b>Agent:</b>	Paul Dance, Foxgloves, 11 North Street, Stoke Sub Hamdon, Somerset TA14 6QR
<b>Application Type :</b>	Other Change Of Use

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to the Area North committee at the request of the Vice Chair and one Ward Members to enable the local concerns to be fully debated.

### SITE DESCRIPTION AND PROPOSAL



The property is an end of terrace, two-storey dwelling constructed from rendered walls and double Roman roof tiles and currently benefits from C3 residential use. The property has two off road parking spaces.

This application seeks retrospective permission for the change of use of the property from C3 residential use to a mix of C3 residential and C1 hotel accommodation. Over the last six years the Hollies Hotel has purchased a number of properties within the Close, including this one. The Hollies use the property for accommodating short, medium and long term guests. It is accepted that the use of the property for persons staying for 7 days or more complies with the lawful C3 residential use and therefore does not require planning permission by itself. However, the Hollies also use the property for accommodating short term guests where people may stay for less than a week e.g. 2-3 nights. It is considered this element of the services accommodation provided by the applicant falls within a C1 (hotel) use and therefore planning permission is sought for a mix of the C3 and C1 uses to allow these different types of guest accommodation.

This proposal is submitted alongside eight other applications, made by the Hollies Hotel, for the same change of use to separate residential properties in Barton Close.

## HISTORY

05/00469/FUL - Minor amendments to elevational treatment of dwellings in approved development of 17 dwellings. Granted conditional approval on 04/04/2005.

03/03611/FUL - Residential development of 17 dwellings and associated siteworks - amended scheme of 02/03387/FUL. Granted conditional approval on 02/06/2004.

Previous planning history not relevant to this application.

## POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

Saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011:

- Policy STR1 - Sustainable Development
- Policy STR5 - Development in Rural Centres and Villages
- Policy 9 - The Built Historic Environment
- Policy 22 - Tourism Development in Settlements
- Policy 48 - Access and Parking
- Policy 49 - Transport Requirements of New Development

Saved policies of the South Somerset Local Plan:

- Policy ST5 - General Principles of Development
- Policy ST6 - The Quality of Development
- Policy EH1 - Conservation Areas
- Policy TP7 - Residential Parking Provision
- Policy ME10 - Tourist Accommodation

National Planning Policy Guidance (March 2012):  
 Chapter 1 - Building a Strong Competitive Economy  
 Chapter 6 - Delivering a Wide Choice of High Quality Homes  
 Chapter 7 - Requiring Good Design  
 Chapter 8 - Promoting Healthy Communities

## CONSULTATIONS

**Martock Parish Council** - Object to the proposal. Considered the cumulative effect of more than half the homes in Barton Close now being under the ownership of the applicant, and noted that if approved there would be potential for more short term (hotel room type) use of the available rooms rather than long term accommodation. Consider the proposal would cause a loss of community feel in Barton Close and make existing permanent residents feel as if they are living in a hotel complex, there is potential for the proposal to create more noise and disturbance due to more frequent visitors, and is aware of reported history of lack of respect by guests for the parking arrangements on site.

**County Highway Authority** - No objection to the principle of change of use from residential to a mix of residential and/or accommodation ancillary to the Hollies Hotel. States that on the basis that sufficient on site parking is provided with the site for parking in perpetuity, no objection raised.

**Area Engineer** - No comment

**Conservation Officer** - No objection to the change of use, but would be wary of any proposals for signage which could have an impact upon the conservation area.

## REPRESENTATIONS

**Three letters of support** - Have been received, raising the following points:

- Bower Hinton does not display a community spirit regardless of the fact that the Hollies own these properties; lack of community spirit is not linked to the number of houses that the Hollies own
- Community spirit is down to individuals making the effort
- If the houses had full C3 use, you could not guarantee what neighbours you will get - it could be a family with teenagers who skateboard in the Close, kick footballs against the walls, party at weekends in the Close
- Guests cause only minimal disturbance, which can be quickly resolved by ringing the hotel - if the houses were privately owned and the neighbours were troublesome this would not be the case
- Parking is not an issue as there is safe, off-road parking available for residents and visitors
- The Close is kept clean and tidy by the Hollies, who maintain the gardens, borders and paths on a weekly basis - this would not be the case if the Hollies did not own these properties
- Value of the properties has increased as a result of the interest the Hollies have in the Close
- Barton Close offers a high standard of living, with peace and quiet for the majority of the time
- Local residents that do not live in Barton Close use the area for off street parking, and this is only possible due to the Hollies owning properties and requiring a

lower level of parking for their needs

- All of the Hollies properties are gardened at the same time on a Friday afternoon, which reduces disruption to local residents in the evening and weekends

**Ten letters of objection** - Have been received, raising concern over the following issues:

- All these applications would allow Barton Close to be used as a 21 bedroom hotel annexe which is out of scale with a small, residential cul-de-sac
- The proposal sets a precedence for the whole close to be used as a hotel annexe
- It makes no sense that a property can be in both C1 and C3 class of use; mixed use would normally apply to a group of properties as a whole with a specific use assigned to the property
- Any demand in hotel accommodation should be met by their nearby hotel and if the hotel is regularly full, it should be extended rather than permitting hotel sprawl in the surrounding residential areas
- The hotel environment impacts on privacy
- Hotel guests assume Barton Close is a hotel complex
- The feeling of living in a hotel complex is exacerbated by daily hotel servicing, hotel signage and weekly hotel gardening contractors
- The hotel insist of maintaining the communal garden areas, despite some residents volunteering to do it
- There is a significant level of hotel servicing that focuses on two garages under the flat at number 8 and these applications would make it worse
- Hotel operation places extra stress on the available parking and the narrow access road
- The frequent arrival and departure of strangers reduces our sense of security
- Proposal provides questionable benefits to the local economy in terms of employment, revenue and business growth
- Hollies have brought up properties that were previously available as low cost houses suitable for first time buyers
- Applications are made in retrospect and hence local residents have not had an opportunity to comment on the proposal until now
- Permission should not be granted for all of the properties the Hollies own to be used with the proposed mixed use
- Parking bays should be clearly marked out and visitors made aware that some are privately owned
- No further external modifications should be allowed to the properties
- If planning permission is granted, it should be personal to the Hollies otherwise they could sell the properties to another hotel
- The Hollies should not be allowed to personally maintain the communal garden areas
- Noise disturbance from shouting, music and loud talking
- Guests frequently walk past ground floor windows causing a loss of privacy
- Guests do not use correct parking spaces allocated to them
- Litter and cigarette ends are left in the Close by guests
- Lights are left on all night
- Water and garden debris is thrown over the fence
- It is believed that a clause was included in the developer's transfer document to prevent the properties on Barton Close being used other than as private dwellings
- House prices have been affected and selling will now be difficult
- Guests cause disturbance through partying to the small hours
- There is no community spirit in the Close as a result of the Hollies buying up all the properties; residents feel as if they are living in a hotel complex

- Proposal would compromise local residents rights to a private life, as set out in the Human Rights Act
- Why do the Hollies need so many properties if only 6% of people staying are short stay guests?
- Longer stay guests use barbeques with no consideration for other residents
- The presence of drunken guests feels uncomfortable and threatening

## CONSIDERATIONS

### Principle

The site is located within the defined development area where the principle of new development is acceptable, and where tourism accommodation is encouraged through Policy 22 of the Structure Plan. The proposal seeks permission for a mixed use of full residential (C3) and hotel (C1) accommodation. This mix is sought to enable a range of occupiers to stay in the property, varying from short periods of overnight to a couple of days as well as longer stays of a week or more. The use of the property for the longer stay guests (i.e. a week or more) falls within the existing C3 authorised use, and hence does not require planning permission in its own right. However the introduction of use for short-stay guests falls within the C1 hotel category, and hence the use of the property for this purpose, even if it is not all of the time, requires planning permission. The mixed use as proposed by the applicant provides tourism accommodation to the local area, which is supported by local and national planning policy due to the economic benefits that this type of use brings.

The economic benefit provided by the proposal has been questioned by local objectors in light of the fact that the property may have periods of being vacant. Most tourism accommodation facilities within the district do not operate at 100% occupancy, often realistically it is more likely to be between 40-60% occupancy per annum. Despite this it is widely accepted that such tourism accommodation will still bring several benefits to the local economy.

### Highways and Parking

The Highway Authority has not raised an objection to the proposal on the basis that adequate parking is available to serve the needs of the property and the proposal does not cause an increase in traffic. Concern has been raised that the proposal causes stress on available parking and the narrow access road. However, it is considered that the C1 hotel use does not create additional traffic above and beyond what would already be created by the C3 full residential use.

Concern has been raised that guests staying in the property do not park in the correct designated spaces. It has also been suggested by one local resident that the parking spaces are clearly delineated. This is considered to be a reasonable suggestion, and could be conditioned as part of any approved scheme.

### Residential Amenity

Several objections have been received regarding the cumulative impact this application, along with all of the other applications that the Hollies submitted for Barton Close, will have upon the residential amenity of the area and the overall character and feel of the area. Comments made by local residents include that there is little community spirit within the Close. While local residents may feel there is a lack of community spirit, this is not something that is a material planning consideration in this circumstance, particularly when the change of use proposed maintains the residential use, and the way in which the property is proposed to be used is so similar to the lawful use. If the Local Planning



Authority were to refuse this application, there is nothing that could be done to ensure that a future occupier of the property would participate with/contribute towards the local community spirit. Therefore it is considered that it would be unreasonable to refuse this application on such grounds.

Several objections received from local residents relate to disturbance caused by guests staying at the properties owned by the Hollies within Barton Close, and that guests think that the whole Close is part of the Hollies hotel. Concern has been raised over noise from music and shouting, however it also appears from objector letters that the Hollies have acted quickly to address noisy guests when it has been reported to them. Furthermore, there is no reason to think that guests staying at the property would be any noisier than a person occupying the property on a full residential C3 basis. The same would apply for concerns raised relating to lights being left on, barbecues being lit, and litter being dropped. As a note to this point, having visited Barton Close several times, the appearance given has always been one of a very clean and tidy area, with no evidence of litter being found.

Objection is also made to disturbance caused from the servicing of the Hollies owned properties in the Close. While daily visits may be made for housekeeping requirements, and weekly visits for garden maintenance, these movements are not considered to be excessive. Furthermore, a normal residential property would generate several movements per day, with trips to work, school, shops and so on.

Concern is raised by several residents that guests staying in the Close cause a loss of privacy and will impact upon their Human Rights as defined in the Act. Attention is drawn to the fact that guests frequently walk past ground floor windows. It is not considered that the proposed use would cause a loss of privacy anymore so than a full residential use. The occurrence of residents walking along the pavements or around the Close is going to happen, regardless of whether occupiers of the property are short term guests or longer term residents. In any case, such glancing views into a ground floor window of a property would not normally be considered to amount to a loss of privacy to the detriment of local residents.

Concern is also raised by local residents over a reduced sense of security from the presence of strangers, some of whom are drunk. However, no evidence has been submitted to demonstrate that this reduced sense of security is well founded as there does not appear to be a history of crime or disorder within the Close.

### **Other Issues**

Concern has been raised locally over the cumulative impact of half the properties within Barton Close being used by the Hollies hotel. This circumstance is unusual in that there do not appear to be any similar cases within the district, however it is necessary for the Local Planning Authority to assess whether the several proposals for change of use as submitted by the Hollies would have a detrimental impact upon the scale of the area. It is reasonable that the area examined relates to the parish rather than just the Close in isolation, and accordingly it is considered the use of these properties within the Close is proportionate with the scale of the area.

Objection has been raised locally on the basis that the use of so many properties within the Close by the Hollies prevents the availability of low cost housing to first time buyer. When planning permission was granted for Barton Close, there was no planning requirement attached to the permission to require any of the properties to be available as affordable housing in perpetuity. Therefore this is not considered to warrant a reason for refusal in this circumstance.

A suggestion has been made that if planning permission is granted for this application, it should be made a personal permission to the Hollies to prevent the property being sold on to another hotel. Given the conscientious way in which The Hollies manage and maintain the property, it is considered this is a reasonable measure.

Comment has been made that no further external modifications should be allowed to the properties. Having checked the history of the property, permitted development rights were originally removed for alterations, extensions and garages to properties within the Close. As this planning permission would start a new chapter in the planning history, it is considered prudent to re-impose such a condition here.

Many issues that have been raised by local residents do not relate to material planning considerations, such as the impact upon property prices, the responsibility of maintenance of communal garden areas, restrictive covenants attached to the property, scope for the hotel to be extended and the application being made retrospectively.

### **Conclusion**

The site is located within the defined development area where tourism accommodation is encouraged in planning policy. The proposed mixed use of C1 and C3 will contribute towards available tourism accommodation in the area, while also maintaining housing supply within the parish. The proposal would not be prejudicial to highway safety, and notwithstanding the objections received, will not harm the residential or visual amenity of the area. Therefore the proposal accords with Policies STR5, 22 and 48 of the Somerset and Exmoor National Park Joint Structure Plan Review, Policies ST5, ST6, TP7 and ME10 of the South Somerset Local Plan and Chapters 1 and 6 of the National Planning Policy Framework.

### **RECOMMENDATION**

Permission be granted

### **JUSTIFICATION**

The site is located within the defined development area where tourism accommodation is encouraged in planning policy. The proposed mixed use of C1 and C3 will contribute towards available tourism accommodation in the area, while also maintaining housing supply within the parish. The proposal would not be prejudicial to highway safety, and notwithstanding the objections received, will not harm the residential or visual amenity of the area. Therefore the proposal accords with Policies STR5, 22 and 48 of the Somerset and Exmoor National Park Joint Structure Plan Review, Policies ST5, ST6, TP7 and ME10 of the South Somerset Local Plan and Chapters 1 and 6 of the National Planning Policy Framework.

### **SUBJECT TO THE FOLLOWING:**

01. Notwithstanding the time limits given to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission (being granted under section 73A of the Act in respect of development already carried out) shall have effect from the 17th July 2012.

Reason: To comply with Section 73A of the Act.

02. Within three months of the date of this permission the car parking space shown on the submitted plan shall be clearly marked out. Such areas shall then be available to serve the needs of the occupiers of 1 Barton Close.

Reason: To ensure that guests staying at the property are aware of the parking spaces related to the property, in accordance with Policy 48 of the Somerset and Exmoor National Park Joint Structure Plan Review.

03. The use hereby permitted is limited to a mixed use of C1 and C3 uses, as defined in the Town and Country Planning (Use Classes) Order 1987 or any statutory instrument revoking and re-enacting that Order. Should the mixed C1 and C3 use cease, the use of the property shall revert to a C3 dwelling.

Reason: In order to define the scope of the permission.

04. The element of C1 use hereby permitted shall only be operated by the Hollies Hotel. Upon severance of the link between the application site and the Hollies Hotel, the use of the application site shall revert to a C3 use.

Reason: In the interests of the residential amenity of the area, in accordance with Policy ST6 of the South Somerset Local Plan.

05. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions or alterations to this building without the prior express grant of planning permission.

Reason: In the interests of the local amenities of the area, in accordance with Policy ST6 of the South Somerset Local Plan.

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