



# Appeal Decision

Hearing held on 13 July 2010

Site visit made on 13 July 2010

by **Anthony J Wilson** BA MA DipLA MRTPI

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

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**Decision date:  
4 August 2010**

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## Appeal Ref: APP/E2001/A/10/2125012

### The Langdon Hotel, Pembroke Terrace, Bridlington, East Yorkshire, YO15 3BX

- 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 Mr Trevor Cruxon against the decision of East Riding of Yorkshire Council.
- The application Ref: DC/09/02326/PLF/EASTNN, dated 17 June 2009, was refused by notice dated 21 January 2010.
- The development proposed is described as "Conversion of existing hotel into 14 flats".

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## Decision

1. I allow the appeal, and grant planning permission for the construction of dormer extensions in the roof at front and rear, and external and internal alterations, to allow change of use from existing hotel to 14 self contained flats at The Langdon Hotel, Pembroke Terrace, Bridlington, East Yorkshire in accordance with the terms of the application, DC/09/02326/PLF/EASTNN, dated 17 June 2009, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the alterations to the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 3) At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). Details of a timetable of how it is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority. Provided that this is shown to be achievable, the approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
  - 4) No development shall take place before amended plans have been submitted to, and been approved by, the local planning authority revising the proposed floor plans to match the amended details for the front elevation shown on the plan received by the Council on 13 October 2009. The development shall be carried out in accordance with these approved revisions.

- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: the 1:1250 site location plan; BD.697/01-Existing Elevations and Layout Plan; BD.697/02A-Existing and Proposed Sections; BD.697/03A-Proposed Plans and Elevations (only in so far as it relates to the rear elevation, the *internal* floor plans [excluding the projecting balconies at first floor] and the front boundary treatment); BD.697/04-Proposed Front Elevation (dated as received by the Council on 19 October 2009); and BD.697/04-Existing and Proposed Plans (roof level).

### **Preliminary matter**

2. Following the submission of the application, the Council amended the description of the proposed development to read "Construction of dormer extensions in roof at front and rear and external and internal alterations to allow change of use from existing hotel to 14 self contained flats". This amendment was agreed by the appellant and I have proceeded to determine the appeal on the basis of this revised description.

### **Main issue**

3. From all that I have read and heard, I consider that the main issue is whether the proposed development would be detrimental to the holiday function of the street in this particular part of Bridlington.

### **Reasons**

#### *Policy*

4. Pembroke Terrace occupies a sea front location, opposite the Spa entertainment complex and close to the town centre of Bridlington. The buildings of the street frontage are mainly given over to holiday accommodation, with a mix of guest houses and holiday apartments and some permanent flats. As a consequence, the street has been identified on the Bridlington Inset Proposals Map of the East Yorkshire Borough Wide Local Plan (EYBWLP) (1997) as being part of a designated area for Holiday Accommodation Protection.
5. Within these areas, saved Local Plan Policy BRID20 records that proposals which would result in the loss of holiday accommodation will only be permitted where they would not harm the function of the street frontage as an area of holiday accommodation; and where they would be compatible with the character of the area. The Council confirmed at the Hearing that their objection related only to the detrimental impact on the holiday function of the street and that the proposed development was acceptable in all other respects. It was also confirmed that, through a later resolution of the Council, officers were instructed that the consideration of applications under Policy BRID20 should also take into account the personal circumstances of the applicant.
6. Before assessing the proposal against Policy BRID20, however, the appellant urged that I consider the very significant change in the policy background emerging in the Bridlington Town Centre Area Action Plan (AAP), which forms part of the Council's Local Development Framework. The submission draft of

the AAP suggests a very different approach to tourism development in the defined area of the plan, of which Pembroke Terrace would form a part.

7. The general thrust of the relevant parts of the AAP is that the desire to drive up the standard of town centre holiday accommodation is being thwarted by, amongst other things, the sheer number of bed spaces of varying quality. The document goes on to record that the usefulness of the BRID20 zoning restriction has passed and that changes of use from holiday accommodation to permanent housing should be encouraged as part of a wider housing and tourism strategy for the town centre. It is anticipated that this approach would not only help to reduce the number of bed spaces, and improve the quality of those that remain, but it would also provide essential new town centre housing and would better secure physical improvements to the built environment.
8. I heard that local circumstances had recently halted the formal submission of the AAP and I acknowledge that its lack of progress towards adoption would limit the weight that can be attached to its emerging policies. Nevertheless, the AAP has a very detailed and comprehensive evidence base which, I understand, has been collected and analysed over a considerable period of time. I consider, therefore, that its findings and its justification for the proposed policies represent a very significant material consideration in my determination of the appeal; as does the fact that the appeal proposal would be wholly consistent with its underlying objectives.

*The holiday function in Pembroke Terrace and its surroundings*

9. The Council considers that, although conversions out of holiday use might be acceptable in back street locations within the terms of Policy BRID20, Pembroke Terrace must retain its holiday-related uses because of its prominence on the sea front, its prime position in close proximity to the Spa and its contribution to the general perception of the local holiday environment.
10. In this respect, the present openness of the public spaces between the road and the Spa reveal almost the full length of the frontage of Pembroke Terrace to the main sea front route along South Marine Road. The Langdon occupies four of the original individual properties, close to the middle of the terrace, within a sequence of mainly holiday-related premises. There is undoubtedly a holiday atmosphere in the immediate locality and the typical variety and gaiety in the appearance of some of the traditional seaside guest houses certainly contributes to it. I also recognise the significance of maintaining this appearance in an important part of the town centre, close to the main entrance to the Spa complex. However, I agree with the appellant that the feeling and perception of the local holiday environment does not rely exclusively on the individual tourist uses in Pembroke Terrace.
11. In fact, the poor external appearance of some holiday premises in the locality has a damaging impact on the area and is testimony to the difficulties being experienced in this traditional sector of the tourism market; and supports the conclusions of the AAP in this respect. On the other hand, it is noticeable that former holiday accommodation has been converted into private apartments in other locations nearby without any significant detriment to the general perception of being in a holiday environment; especially on the extensive street frontage of South Marine Road, immediately to the south of the Spa. I accept

that the move away from hotel use may have some effect on the look of the street frontage but, taking into account the lively and colourful appearance displayed by the apartments in other conversions nearby, I do not consider that the replacement of The Langdon with private flats would be detrimental to the perception of the terrace as part of a holiday area.

12. Finally, in my experience, investment purchasers are traditionally attracted to private flats in sea front locations in the resorts; seeking to use them for holiday lettings, which are generally much more profitable than long-term, permanent lets. Sadly, but inevitably these days, other apartments would also become second homes. Notwithstanding the conversion to permanent accommodation, therefore, I consider that, in situations such as this, it is more than likely that some degree of holiday use would be maintained by the proposed new use of the building.
13. The Council argues that the loss of the hotel would affect the viability of the neighbouring businesses in the street, putting other holiday uses at risk. However, there is no evidence to support this assumption and letters from the proprietors of the holiday premises nearby tend to support the alternative point of view that the closure of the Langdon would be a benefit to them rather than a disadvantage. Nor is there any convincing evidence that the proposed change of use would threaten the recent regeneration initiatives at the Spa. Indeed, the evidence base of the AAP, and the emerging objectives of the town centre strategy, would seem to suggest just the opposite.
14. I conclude, therefore, that the change of use to flats would not be sufficiently detrimental to the holiday function of the street frontage to cause unacceptable harm in the context of the provisions of BRID20.

#### *Viability*

15. Looking at the question of the viability of the business, the Council were unable to provide me with any policy base to justify the requirement to demonstrate lack of viability; either from the provisions of BRID20, or from other development plan policy. Nevertheless, from the detailed accounts submitted with the appeal, it is very clear that this previously successful business is now failing and has been experiencing serious financial difficulties for some time. A record of very recent occupancy levels supplied at the Hearing demonstrates that The Langdon is attracting a small and diminishing number of guests. This, despite a significant increase in recent spending on advertising and considerable investment in upgrading the internal fabric of the building, and improving its facilities, in an attempt to turn matters around.
16. The Council conceded at the Hearing that these details would have been material to their consideration of the application and would have added weight to the appellant's case. However, I understand that the decision was made on the more limited information available at the time and was heavily influenced by the Estate Agent's sales particulars, which described the business as being 'a highly profitable concern'. Understandably, the Council considered that this discrepancy cast major doubt on the reliability of the relatively limited information on viability that was originally submitted with the application. However, I heard that the late cancellations by coach operators had deprived The Langdon of a very significant part of its customer base after the hotel was

offered for sale. Moreover, the accounts over 4 years provide no doubt as to the true trading position of the business.

17. Taking this into account, it is very unlikely that a sale could realistically take place within a period of time that would allow the appellant to overcome the financial difficulties which have been created by the recent underperformance of the business and which, on the basis of the current and prospective occupancy levels for the present season, will only worsen in the coming months and beyond.
18. I conclude, therefore, that the evidence demonstrates that the present business is no longer viable, that it has not been so for some time, and that its lack of profitability is creating serious, personal, financial difficulties for the appellant.

*Disposal of the property as a going concern*

19. The Council argue that there is insufficient evidence that the appellant has made a realistic attempt to dispose of the property as a hotel. It is suggested that it should have been offered for sale at a reduced asking price to reflect its lack of profitability and the recently-depressed property market. However, looking at the asset valuation from the accounts, I do not consider that the original asking price was out of step with the market at the time and the period of sale would have predated the recent fall in the property market. Nevertheless, the evidence is that there was not a single expression of interest from a prospective purchaser.
20. Moreover, the appellant's recent intentions to re-market the property have been met with an entirely negative reaction from a well-established, local sales agent. His written response records that The Langdon would not prove attractive to the increasingly limited number of potential commercial purchasers, even at a greatly reduced price, and that there is little point in offering it for sale in its present format.
21. In my opinion, irrespective of a price reduction, there would be little realistic prospect of the disposal of the Langdon to an alternative hotelier as a going concern.

**Conditions**

22. In the event of planning permission being granted, the Council has suggested the imposition of 4 conditions (Council's numbering in brackets) and I have examined these within the terms of Circular 11/95: The Use of Conditions in Planning Permissions. I shall impose the standard time condition (1) and, in the absence of any details of the chosen materials with the application, I consider that condition (2) requiring their submission is appropriate in the interests of securing a satisfactory appearance.
23. Following the terms of Policy ENV5 of the Regional Spatial Strategy (RSS), suggested condition (3) seeks to promote the use of renewable energy. Although the RSS is no longer part of the development plan, Planning Policy Statement: Planning and Climate Change (December 2007) records the need to consider local requirements for decentralised energy to supply new development and, depending upon the evidence base, to set local targets

accordingly. The Council's suggested condition would thus be consistent with national policy objectives to reduce carbon emissions and I shall impose it on the decision. However the appellant has requested a caveat that the condition would be implemented only if its requirements can be practically achieved in this particular location and I consider this to be a reasonable qualification.

24. As discussed at the Hearing, there is a requirement to ensure that all of the plans are made consistent with the amended front elevation and it is necessary to impose a condition requiring the submission and approval of these details as an important addition to a plans clarification condition (4).

### **Conclusions**

25. I have found that there would be no material harm to the function of Pembroke Terrace frontage as an area for holiday accommodation and thus there would be no conflict with the relevant part of Local Plan Policy BRID20. There is clear evidence of a lack of viability for the current business, both historically and into the immediate future, with little prospect of improvement. Moreover, this is causing considerable personal difficulties for the appellant. When this is taken together with the fact that this type of change of use would be proactively encouraged in the emerging LDF document of the AAP, I cannot escape from the conclusion that the appeal should succeed and that planning permission should be granted.

*Anthony J Wilson*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr C Calvert	Consultant with Pegasus Planning Group
Mr T Cruxon	The appellant
Mrs J Cruxon	The appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Ashworth	Assistant Principal Development Control Officer with the Council
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### INTERESTED PERSONS:

Ms J King	Planning Officer with the Council
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## DOCUMENTS

- 1 A copy of the Council's notification of the Hearing
- 2 Extracts from the AAP – Policies BridTC12 and BridTC20
- 3 A copy of the sales particulars for the Langdon Hotel
- 4 Details of the recent levels of occupancy for The Langdon since March 2010
- 5 RSS Policy ENV5

## PLANS

- A An extract of the Proposals Map from the EYBWLP
- B Illustrative details of the proposed new layout for the public amenity area works currently under construction in the former Spa gardens, opposite the site