
Hotels and leisure

Hostels: A developing sub-sector in the hospitality market

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Fuelled by the changing priorities of millennial travellers, new products have emerged to accommodate those looking for an alternative to the conventional hotel. The birth of branded hostels, with 70 per cent of users being born between the early 1980s and the mid-1990s, is one such phenomenon. The charge is being led by new brands such as Jo&Joe (launched by AccorHotels in 2016) and complemented by the expansion of more established brands such as St Christopher’s and Generator, all of which are adding supply to the market. The growth of the hostel segment cannot be ignored.



A new opportunity

From a real estate ownership perspective, those redeveloping buildings in urban locations may find that a hostel could be an appropriate use where a hotel is not (for example, a building’s window layout or floor plate may more easily accommodate larger rooms, which may suit hostel use). The efficiency within which the space can be used is key. Revenue generation on a per-bed or per square foot basis could be enhanced by something that is seen, at least to the consumer market, as a budget option.



Legal structures

The legal structures for hostels that marry real estate owners to brands are no different to those used for hotels. Deals can be structured on a lease, franchise or operating agreement basis (and the range of terms that can be incorporated into such deals can be as simple or as complex as the parties desire). The main legal difference, at least in respect of the transactions in the UK, relates to the position under planning law.



Hostel or hotel?

Hostels previously fell within Use Class C1 (Hotels). However, they were removed from this Use Class in 1994 and article 3(6)(i) of the Order provides that no Class specified in the Order includes use as a hostel. As such, a hostel is classified as “sui generis” use.

It is questionable whether modern upmarket tourist hostels have become so far removed from the conventional understanding of hostels that, in planning terms, they should not be defined as such. However, it is likely that they will still be classified as “sui generis” use; either as a standalone “hostel” use or as a mixed hotel and hostel use.

Case law and a recent planning appeal decision by the Planning Inspectorate have identified a number of features which tend towards “hostel” use; in particular, the presence of dormitories and/or communal or shared facilities, the use of premises in accommodating specific categories of people (e.g. the young), payment being made on a nightly basis and booking being available “by the bed”.

However, it is acknowledged that hostels may encompass some elements of hotel use, such as being able to book private rooms, as appears to be the case with a number of branded offerings. In such cases, it is a planning judgment as to whether the hotel use is merely incidental or ancillary to the primary hostel use, or, whether there are two separate primary uses.



The mixed-use option

Depending on the extent to which the premises operate in a similar manner to a hotel, with individual bookings of private rooms, it is possible that a mixed-use could be established. In any event, the use would be “sui generis”. The consequence of this would be that in all likelihood, planning permission for a change of use would be required in order to establish a modern upmarket tourist hostel. Those holding their real properties on a long-leasehold basis would also need to consider whether an application would need to be made to the landlord for change of use under the lease. Those currently negotiating such deals may wish to consider including hostel use (or perhaps upmarket hostel use – with an appropriate definition) to give such flexibility.

Hostels can accommodate additional services such as a restaurant/bar and/or café which would likely be considered ancillary to the overarching “sui generis” use and would typically not need separate planning permission. However, as planning permission would be required for the hostel use in any event, it would be prudent to include these as part of any planning application.



We can help

Whilst hostels are the exciting growth story of the hospitality sector, navigating some of the legal/planning questions is not without its challenges and a task where specialist expertise is likely to be of benefit. If you are planning to develop or acquire a hotel or hostel (or to develop a brand), we'd be happy to discuss how we can assist further.



For more information

Our global legal practice is highly experienced in all aspects of the hotel and leisure industry and advise hotel owners, developers, lenders and many of the world's top hotel and leisure operators on all aspects of their operations. Through our extensive global platform of lawyers, we are able to provide a co-ordinated legal service catering to all aspects of our clients' legal needs – from a single project boutique hotel development, to a multi-jurisdictional hotel portfolio acquisition. Our previous track record in the hotel and leisure sector has not only given us insight into the often complex legal requirements of the industry, but has also enabled us to build an in-depth understanding of the commercial and practical aspects of our clients' business. Our global offices can offer you the skills and experience required in this growing and diversified sector.

If you would like further information please contact [Nick Clayson](#) or your local Norton Rose Fulbright contact.

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