

MISCELLANEOUS REPORT FOR 24/10/0014

MR W J CARRESS

MODIFICATION OR DISCHARGE OF A PLANNING OBLIGATION (SECTION 106 AGREEMENT) TO ALLOW NON-FAMILY MEMBERS TO OCCUPY THE ANNEXE BUT KEEP ANCILLARY TO THE MAIN DWELLING AT MANOR BARTON, STOKE ROAD, NORTH CURRY (24/01/0037)

BACKGROUND

In April 2010 the above application was submitted to vary an Existing Section 106 Agreement. As a very rare type of application, the Council had no set procedure for dealing with this and neither the Ward Members or Parish Council were consulted.

The application was determined without reference to the Planning Committee, however if the Parish Council and Ward Members had been consulted, it is likely that they would have supported the proposal (based on their subsequent comments) and the application would have been referred to the Planning Committee

The application was refused for the following reason:

- 1 There has been no physical change in the layout of the buildings or to the junction to Stoke Road that would overcome the Council's original objections to the provision of a separate unit of accommodation to the rear of Manor Barton. In particular the Council objects to the creation of a separate dwelling for the following reasons:-

The close physical relationship between Manor Barton and the Annexe is considered to result in an unacceptable level of overlooking between properties and insufficient amenity space for the occupiers contrary to Taunton Deane Local Plan policies S1, S2

The likely increase in the use of the substandard junction with Stoke Road such as would be likely to result from the provision of a separate unit of accommodation would be prejudicial to highway safety and contrary to Somerset and Exmoor National Park Structure Plan policy 49.

The lane to the property, by reason of its restricted width and substandard junction with Stoke Road is considered unsuitable to serve as a means of access to the proposed development contrary to Somerset and Exmoor National Park Structure Plan policy 49.

I proposed that the Parish Council and Ward Members were given the opportunity to comment on the submitted proposal and respond in the way that they would have if the application had not been determined. Those responses have been received and included in the report below.

RECOMMENDATION

That Members endorse the decision to refuse modification of the Section 106

PROPOSAL

Planning permission was granted in 2002 for the creation of an annexe accommodation in the rear garden of Manor Barton, Stoke Road , North Curry. This proposal is for the variation of the Section 106 agreement which stated that "the accommodation was to remain as ancillary accommodation to the main residential use known as Manor Barton aforesaid and shall at no time become a separate unit of accommodation" to enable its use as a separate unit of accommodation.

SITE DESCRIPTION AND HISTORY

Manor Barton is a detached bungalow located to the west of Longs House, North Curry. It is accessed off the main road by a single width access drive with poor visibility onto Stoke Road. The annexe is located at a distance of 6 metres to the rear of the bungalow on land which is at a higher ground level than the bungalow. All of the main living room windows of the annexe face directly towards the rear of the main bungalow causing a high level of inter visibility between the two. There is a parking space to the north of the bungalow and this provides parking space for 2 cars with no on site turning.

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

NORTH CURRY PARISH COUNCIL - support:

"I would like to thank you on behalf of North Curry Parish Council for the constructive approach you have taken in allowing this application to be re-considered.

The Parish Council considered the application on 11th August 2010 and voted unanimously to support the proposal on the following grounds:

- This is a 'technical' modification only and there are no concerns in terms of property footprint or planning impact.
- The modification would still leave the main condition of the original 106 obligation intact i.e. that the annex must remain as ancillary to the main house and cannot be sold or developed as a separate property.

- The objections raised by Highways in terms of traffic use and access were not accepted at the time of the original application and have not proved to be an issue in the intervening years - there is parking available for 3/4 cars on the site, access is acceptable and usage rate will be no different under the modification if granted - in fact it may be less as the family members who occupied the annex until recently were multiple car owners and frequent car users.

- If the modification is not granted the annex will remain unoccupied - as the owner's children have now grown and left home - and it will only deteriorate in condition, the Parish Council cannot see how this can be preferable to granting the modification.

In the light of the above mentioned points the Parish Council would be grateful if you would reconsider the original decision to reject the modification.”

SCC - TRANSPORT DEVELOPMENT GROUP - The proposal would result in the creation of a separate dwelling which could result in an additional 8-10 vehicle movements per day on the substandard lane with a substandard junction with Stoke Road which could be prejudicial to highway safety

Representations

8 letters of support received raising the following issues:

- Allowing someone to live in the annexe can service the need for housing in the area.
- An empty property has no beneficial use.
- Traffic would remain the same.

Letter received from Ward Member Cllr Phil Stone:

“I have discussed this application with Mr Carress and his wife. I do feel there is a good case for the removal of the 106 condition restricting the use of their annex for a wider range of use. Having looked at the issues which you raised in your letter and those which came up at the time of the original application I do not feel that there are strong arguments against allowing the annex to be used as a longer term let or perhaps for business use associated with Manor Barton itself. The relevant issues seem to be ;-

1) The visibility onto the main road is not up to full standard but is not dangerous and the increased use would be relatively little, if any increase at all on the present use. Stoke Road has a 30 mph speed limit which most drivers observe.

2) There is scope for the parking of 4 cars with a small modification to the existing drive. This would be sufficient for the uses envisaged.

3) The location of the property is such that any changes to the use are very unlikely to affect the neighbours. Allowing persons other than the family to rent the property would make no difference to the neighbours.

4) Although business use has not been applied for in this application any such use would be office use and this would not generate noise or disturbance.

Mr Caress says that he has been trying to sell the property for 3 years and that a removal of some of the restrictions would help considerably with this.

The use of the annex for business, perhaps restricted to the owner of Manor Barton would help encourage economic development in a rural area. In sustainability terms this would reduce the need to travel and so would be a positive thing.”

PLANNING POLICIES

S1 - TDBCLP - General Requirements,
H18 - TDBCLP - Ancillary Accommodation,
EN14 - TDBCLP - Conservation Areas,
S&ENPP49 - S&ENP - Transport Requirements of New Development,
S2 - TDBCLP - Design,

DETERMINING ISSUES AND CONSIDERATIONS

Planning permission was granted by planning committee in 2001 for the erection of a replacement building in order to form a new dwelling to be used by family members, ancillary to the existing bungalow known as Manor Barton. The annexe is 6m away from the rear of the existing bungalow and was not considered to provide a sufficient level of amenity, privacy and access required for a separate new dwelling. The applicant wrote a supporting letter stating the reasons for the proposal. This stated that the proposal would provide ancillary accommodation for the applicant's family and later as a granny annexe for the applicant himself. His letter confirmed that the extra accommodation would not be for sale as the access would not allow for this. During the course of the application the Highway Authority stated that they would recommend refusal for the provision of a separate dwelling but not if the accommodation was ancillary as this would not be likely to generate such an intensification of use. As a result the applicant entered into a section 106 agreement with the Council which stated “ The owner hereby covenants with the Council that the development proposal shall at all times remain as ancillary accommodation to the main residential use of Manor Barton aforesaid and shall at no time become a separate unit of accommodation”

The applicant contacted the planning department as he was having trouble selling the property and had an interested purchaser who wanted to let the two separately. The

applicant has now applied to modify to the Section 106 agreement to allow the annexe to be let as a separate unit of accommodation to enable its upkeep and maintenance.

The annexe is located on raised land to the rear and above Manor Barton. It is in extremely close (6m) proximity to the rear of the bungalow and has all of its main windows and doors facing the rear of the bungalow. I consider that the separate use of the two buildings would result in unacceptable levels of privacy or amenity for future occupants. In addition the formation of two separate dwellings would result in an increase in the use of the substandard access lane and junction with Stoke Road and would be detrimental to highway safety.

Should the Section 106 be amended as requested, then the building would cease to be an annex and become a separate unit of accommodation, albeit in the same ownership as the bungalow. This would be a fundamental change to what was permitted in 2001.

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