

43/2004/156

MR B GILLESPIE

**REMOVAL OF CONDITION 02 ATTACHED TO PLANNING PERMISSION  
43/2004/107, THE WHEELHOUSE, LINDEN, WESTFORD, WELLINGTON**

12529/20926

REMOVAL OF ONEROUS CONDITIONS

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**PROPOSAL**

Application 43/2004/107 for the change of use of dwelling and outbuildings to adult care home was presented at Committee on 3rd November, 2004 and granted permission. Permission was granted subject to a personal condition being attached (Condition 02).

The current application is for the removal of this personal condition and for the permission to be for the benefit of the land.

The agent has also submitted a letter dated 6th January, 2005 amplifying the proposal to remove Condition 02. The agent states that Condition 02 is contrary to Government Advice, circular 11/95, regarding conditions. Paragraph 93 of circular 11/95 states that it is seldom desirable to provide such restrictive conditions unless, for example, there are strong, compassionate or personal reasons for allowing a use which would otherwise be permitted. It would not matter who occupies the premises, whether it is Mr Gillespie or someone else, it will only be possible to lawfully occupy the premises in accordance with the planning permission granted.

The reason stated for the condition is "to ensure the use of the site does not change to a business that would increase traffic and place risk to the amenity of the area and highways safety". There is nothing to stop Mr Gillespie changing his business providing there is no material change of use and the same would apply to any other user of the land if the personal condition is removed. The applicants claims the proposed use would attract less traffic than a dwelling with B & B and holiday let use. Visitors are actively discouraged for people with autism. A new parking area could be established.

The agents goes onto say that the personal permission means that if the applicant leaves the business would have to close and residents relocated. The condition also dissuades financial backers from investing.

**CONSULTATIONS AND REPRESENTATIONS**

COUNTY HIGHWAY AUTHORITY no objection provided no increase in traffic movements.

TOWN COUNCIL opposed to this application as it feels the condition should remain in force: it was only imposed a few weeks ago.

TWO LETTERS OF OBJECTION raising the following issues:- condition justifiably included "to ensure the use of the site does not change to a business that would increase traffic and place risk to the amenity of the area and highway safety"; Mr Gillespie was commended on his enterprise and enthusiasm by councillors, who, we feel, gave planning permission solely for this reason; he is looking to the future if his venture fails; permission granted for this specific purpose, not to sell on as another business, should this not be successful; condition applied to comply with the Highways Authority, since no change, it is still necessary; lifting condition would risk hazards that it was designed to prevent; without condition, what measures can be used to restrict traffic in the short and long term and how would it be monitored?; would be satisfied for condition to be removed and replaced with one that quantifies the level of traffic the Borough Council considers acceptable; Corams Lane has public footpath running along it, with health and safety in mind it increase in volume of traffic would be a worry.

## **POLICY CONTEXT**

Policy S1 (general requirements) of the Taunton Deane Local Plan is relevant to this application. Policy S1 seeks to ensure that the proposal will not harm: wildlife habitats; appearance and character of a building, settlement or landscape; additional road traffic will not lead to road safety. Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 is also relevant to this application having regard to highway safety.

## **ASSESSMENT**

Condition 02 was placed on the permission to reflect the concerns of the County Highway Authority, with regard to future traffic generation. Condition 10 was also imposed to ensure that a travel plan was submitted prior to the care home being brought into use. This travel plan will provide a measure of control of traffic movements in the short term. In the long term, measures to restrict traffic movements will be controlled in a variety of ways: any future change of use or extension to the building would require planning permission and traffic movements would be assessed at the application stage. A condition to be attached to this application would provide for a travel plan to be submitted if there was ever a change in proprietor or a change in the nature of the business use.

As the County Highway Authority have no objection, subject to no increase in traffic movements, and that future measures would assess the traffic movements, the application is therefore considered acceptable.

## **RECOMMENDATION**

Permission be GRANTED subject to condition requiring future travel plans for any change to proprietor or change in the nature of the business use being submitted and approved by the Local Planning Authority, details of which to be implemented prior to any change occurring.

REASON(S) FOR RECOMMENDATION:- The proposal is considered not to harm the residential amenity of the area or harm highway safety in accordance with Taunton Deane Local Plan Policy S1 and Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

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NOTES: