

## **Planning Committee - 13 December 2006**

### **Report of the Chief Solicitor**

#### **Variation of Section 52 Agreement - Castle House, Bishops Lydeard**

##### **Background**

1. In 1980 planning permission was granted (Application No 4/06/80/009) for the extension to and conversion of the ground floor of stables at Castle House, Bishops Lydeard to form a one bedroomed flat for use by an elderly relative. Permission was granted subject to a Section 52 Agreement (the forerunner of a Section 106 Agreement) preventing the use of the accommodation as a separate unit of accommodation.
2. The elderly relative died some time ago and the owner advises that the unit has been occupied in breach of the Section 52 agreement for a period in excess of ten years. An application for a Certificate of Lawful Use as an independent unit could be made, but the restriction under the Section 52 Agreement would remain.
3. In addition planning policy has evolved since 1980 such that the unit would now comply with policy as a separate unit of accommodation, with the relationship between the unit and the main dwelling being considered as acceptable. There is sufficient land for two curtilages to be formed.
4. The owner has requested that the Section 52 Agreement be varied to remove the current restriction on the use of the unit as part of the main house. In view of the changes in policy since the restriction was imposed and the use of the unit in contravention of the restriction for in excess of ten years, such a request seems reasonable.

##### **Recommendation**

It is therefore recommended that the Section 52 Agreement of the 24 September 1980 relating to Castle House, Bishops Lydeard be varied to remove the restriction preventing the stable accommodation being used as a separate unit of accommodation.

Chief Solicitor

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