

App. No.: **65926** Reg. : **11/02/19** Applicant: **YOUNG DEVON**
L. Bldg. : Expired: **08/04/19** Agent : **PLANNING PARTNERSHIP LTD**
Parish : **ILFRACOMBE**
Case Officer : **Mr K Bines**

Proposal: **REMOVAL OF CONDITIONS 3 & 4 ATTACHED TO PLANNING PERMISSIONS 15310 (CONVERSION OF EXISTING DWELLINGS TO FORM HOSTEL FOR YOUNG PEOPLE WITH ASSOCIATED SKILL TRAINING ROOMS AND WARDENS FLAT). REMOVAL OF CONDITIONS 3 & 4 (USE RESTRICTIONS) ATTACHED TO PLANNING PERMISSION 22076 (CONVERSION OF DISUSED BUILDING TO FORM 9 NO. FLATLETS AND ANCILLARY COFFEE BAR AND SEMINAR ROOM FOR USE BY WILDER PARK COTTAGE PROJECT) (AMENDED DESCRIPTION & LOCATION PLAN)**
Location: **4 – 6 WILDER ROAD, ILFRACOMBE EX34 8BN**

PROPOSAL

This retrospective application, as originally submitted, proposed the creation of an additional flat on the ground floor of 4 Wilder Road. Following an objection this element of the application was removed and the variation of the operation of the site from a specified operator 'Community Action' to an unrestricted operator is sought.

RECOMMENDATION

Approve

SITE AND SURROUNDINGS

The planning permissions to which this S73 application relates are located on the east side of Wilder Road, with the Wilder Brook running immediately to the back of the premises. Further east again is the Wilder Road public car park. On the opposite side of Wilder Road are residential units whose frontages are immediately onto the back edge of the pavement. The site is within the Designated Ilfracombe Conservation Area, and the properties 17-45 opposite are Grade II Listed Buildings. The site falls within Flood Zone 3, and within the Critical Drainage Area.

REASON FOR REPORT TO MEMBERS

The building the subject of this application is owned by North Devon Council

POLICY CONTEXT

The North Devon and Torridge Local Plan has recently been adopted and the following policies are relevant:

North Devon and Torridge Local Plan (2011 – 2031)

ST03: Adapting to Climate Change and Strengthening Resilience.
ST15: Conserving Heritage Assets

DM01: Amenity Considerations
DM05: Highways
DM06: Parking Provision
DM07: Historic Environment

CONSULTEE RESPONSES

Ilfracombe Town Council
Recommend Approval 22 January 2019
Recommend Approval 19 March 2019
Environment Agency

In the absence of a flood risk assessment (FRA), we object to this application and recommend that planning permission is refused. The reason for this position and advice is provided below.

Reason

The application site lies within flood zone 3 which is land defined by the planning practice guidance as having a high probability of flooding. The National Planning Policy Framework (NPPF) paragraph 163, footnote 50 states that an FRA must be submitted when development is proposed in such locations.

An FRA is vital to making informed planning decisions. In its absence, the proposed development's flood risk is unknown. This is sufficient reason for refusing planning permission.

Overcoming our objection

To overcome our objection, the applicant should submit an FRA which demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

If this cannot be achieved, we are likely to maintain our objection. Please consult us with the FRA and we'll respond within 21 days of receiving it. Guidance on how to prepare a flood risk assessment can be found at

<https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications>.

10 January 2019

Following review of the amended description and plans, we advise that our position has not changed from that of our letter dated 10th January 2019. In the absence of a flood risk assessment (FRA), we object to this application. Please refer to our previous letter for advice on overcoming our objection.

14 March 2019

REPRESENTATIONS

*At the time of preparing this report 1 letter of objection had been received relating to the application. (Copies of all the letters have been made available prior to the Planning Committee meeting in accordance with agreed procedures).

*See attached list for representation names and addresses.

This letter raises concern regarding the potential impact on the amenities of the neighbouring dwellings.

PLANNING HISTORY

Reference	Proposal	Decision	Date
15310	Proposed conversion of existing dwellings to form Hostel for Young People with associated skills training and Wardens Flat, 4 & 6 Wilder Road	Granted subject to conditions	5 May 1992
22076	Proposed conversion of disused building to form 9No.flatlets and ancillary coffee bar and seminar room for use by Wilder Park Project	Granted subject to conditions	6 August 1996.

SUMMARY OF ISSUES

1. Do the current conditions serve a useful planning purpose

PLANNING CONSIDERATIONS

Planning permission 15310 had the following condition attached;

4. The change of use/development hereby approved relates solely to the use of the premises by 'Community Action' and shall be used and occupied only for the purposes of skills training, hostel and management thereof and for no other purpose identified within the Town and Country planning (Use Classes Order) 1987.

The reason for this condition being;

In the opinion of the Local Planning Authority the particular use applied for is acceptable but that any variation to that use would need to be further considered on its planning merit.

Planning permission 22076 had the following conditions attached;

2. The permission shall enure for the benefit of the applicant, 'Community Action' only.

The reason for this condition being;

In granting this permission the Local Planning Authority has had regard to the Applicant's special circumstances and the intensity of the flats hereby permitted.

Also;

4. The development hereby approved shall be used solely in conjunction with Nos 4 and 6 Wilder Road and shall not be sold, let or occupied separate from these properties.

The reason for this condition being;

In granting this permission the Local Planning Authority has had regard to the Applicant's special circumstances and the inadequate parking provision for private flats.

The Planning Practise Guidance advises the following in respect of 'personal' conditions; Is it appropriate to use conditions to limit the benefits of the planning permission to a particular person or group of people?

Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.

A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, but might, for example, result from enforcement action which would otherwise cause individual hardship.

A condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company.

Paragraph: 015 Reference ID: 21a-015-20140306

The conditions relating to the operation of the site as a single entity would give a significant degree of assurance in respect of the site not being broken up into, for example separate residential units. It would also result in a Body or combination of Bodies managing the site which of itself would not give rise to any planning related implications. Whilst concerns have been raised regarding the impact of the use of the building on the amenities of the occupiers of the neighbouring residential properties, it is considered that the proposed variation and removal would not have any additional impact in respect of the amenities of these occupiers. The proposal is therefore considered to comply with Policy DM01.

The removal/variation of conditions would have no impact on flood risk either to the site or third parties within the Critical Drainage Area. The proposal therefore is in accordance with Policy ST03.

The highway circumstances relating to the operation of the site would not be altered. The proposal is therefore not in conflict with Policies DM05 and DM06.

There would be no impact on the character or appearance of the Conservation Area or the setting of the Listed Buildings. The proposal is therefore in accordance with Policies ST15 and DM07 and the Duties within S66 and S72 of the Listed Building and Conservation Area Act.

CONCLUSION

The removal/variation of the conditions regarding the named Body to operate the site are no longer considered to serve a useful planning purpose, and therefore the recommendation is one of approval.

HUMAN RIGHTS ACT 1998

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

Article 8 – Right to Respect for Private and Family Life
THE FIRST PROTOCOL – Article 1: Protection of Property

DETAILS OF RECOMMENDATION

That the application be granted through the issuing of a new planning permission subject to the following conditions;

1.The 2-6 Wilder Road shall be used and occupied only for the purposes of skills training, hostel, including Wardens Flat and management, as 9No.flatlets and ancillary coffee bar and seminar room Any unit of accommodation shall not be let, sold, or occupied separately from these properties.

Reason.

The protect the amenities of the occupiers of any unit of accommodation from the use/operations of the overall site.

2.No windows or doors shall open on or over the pavement.

Reason.

In the interests of public safety.

3.Provision shall be made within the site for the disposal of surface water so that none drains onto the highway.

Reason.

In the interests of the public safety and to prevent damage to the highway.

INSERT(S) TO FOLLOW OVERLEAF

1. OS Location Plan
2. List of representations names and addresses