

Report

Report subject: Planning Application S/2004/1485 at the Old Garden House, High Street, Tisbury

Report to: Western Area Committee

Date: 8th December 2005

Author: Oliver Marigold, Senior Planning Officer

Report Summary:

To establish whether planning permission should be granted for this development despite not complying with the requirements set out by an earlier resolution of the Western Area Committee in relation to car parking spaces

Background:

Members may recall this application being brought before them at Western Area Committee on 9th September 2004. The site consists of an existing two storey dwelling in the centre of Tisbury and the application proposed to convert the existing seven-bedroom dwelling into 5 flats, of which three would be one bedroom and two would be two bedroom flats. The officer's report to committee is included as an appendix to this report.

At the meeting on 9th September, members resolved to grant permission, subject to a s106 agreement securing the maintenance and subsequent availability of three parking spaces included within the control of the applicant, and shown within the blue line on the application plans. The resolution also specified the spaces involved (numbers 7, 10 and 11) and referred to the plan (2004-03a).

After a considerable period of discussions between the Council's solicitors and the applicants, it has subsequently transpired that the applicants do not have the exclusive control over the parking spaces that they indicated in plan 2004-03a - the adjoining houses on Old Garden Mews have been granted rights to park in space number 11. Therefore the committee resolution cannot be complied with.

Planning Merits

Consideration therefore has to be given to whether permission should be granted in the absence of the control over space 11. It has to be remembered that both Government policy and the Local Plan policy only require a maximum number of spaces. Essentially, if the application was submitted proposing no car parking spaces at all, it would be difficult for the Authority to defend refusal at appeal.



Awarded in:
Housing Services
Waste and Recycling Services



Furthermore, it would appear that the applicants have control over the two other spaces (numbers 7 and 10) which could at least provide some parking provision for the exclusive use of the flats. Two further spaces were also shown as being within their control on plan 2004-03a (numbers 3 and 4). However the applicants did not previously offer them as being usable for the flats, and they are shown on the plans as being located within a garage block. Furthermore it is unclear which of these spaces is controlled by the adjoining dwellings.

Options for consideration:

- a) Resolve to grant planning permission, without a s106 agreement and/or condition relating to car parking.
- b) Resolve to grant planning permission, subject to a s106 agreement requiring that:
 - 1. upon the first occupation of the flats hereby approved, parking spaces numbered seven and ten as shown on plan number 2004-03.a. shall be maintained and made available, in perpetuity, for the sole use of occupants of the flats hereby approved, in accordance with a scheme to be submitted to and approved by the local planning authority;and
 - 2. All persons concerned entering into a section 106 under the provisions of the Town and Country Planning Act 1990 (as amended) for: (i) The maintenance and subsequent availability, in perpetuity, of parking spaces for the sole use of occupants of the flats hereby approved, and (ii) A financial contribution towards recreational public open spaces.
- c) Resolve to grant planning permission, subject to a s106 as outlined in option b) above, but including space number 11. This would, however, require the owner(s) of the dwelling(s) who have an interest in the space to enter into the agreement.
- d) Resolve to refuse permission on the grounds of inadequate car parking spaces

Recommendations:

Officers originally recommend that members agree with the original recommendation that permission should be granted without requiring car parking spaces, in accordance with Local and National policies (option A). However, if members do have concerns regarding parking spaces, option B would at least ensure that two spaces would be available for the occupiers of the flats.

Option C would rely on the owners of all the dwellings who have an interest in the space agreeing to enter into the agreement; this seems unlikely. Option D is not recommended. Despite the Highway Authority's recommendation, officers consider that refusing permission on the grounds of inadequate car parking spaces would be very difficult to defend at appeal, in the light of local and national policies.

Background Papers:

Copies of the officer's report and minutes of the previous committee meeting are included as appendices to this report.

Implications:

- **Financial:** Options B and C would involve the Legal department in additional costs in drawing up the appropriate agreement, although these would be recoverable from the applicants. Option D would risk an award of costs against the Local Planning Authority if the applicants went to appeal.

- **Legal:**
- **Human Rights:** None
- **Personnel:** None
- **Community Safety:** None
- **Environmental implications:** None
- **Council's Core Values:**
- **Wards Affected:** Tisbury