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Planning Services
Wiltshire Council
Monkton Park
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Our ref: PR002293

Date: 31st August 2023

Sent via e-mail

Dear Madam/Sir,

Annex at Ventura, Thickwood Lane, Colerne, Wiltshire SN14 8BN

Application to discharge Section 106 agreement attached to planning permission 11/02138/FUL

Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992

On behalf of my clients [redacted] we submit an application under the above regulation to discharge the the S106 agreement (ref: WCS/16939) associated with the planning permission 11/02138/FUL, which authorized the conversion of the existing garage to a granny annexe. This was an amendment to an earlier permission (ref: 09/01575/FUL), which also had a Section 106 agreement attached. For the avoidance of doubt, the 2011 consent was implemented.

Section 106A of the TCPA allows for a planning obligation to be modified or discharged where the obligation no longer serves a useful purpose.

The S106 states that the annexe shall not be occupied other than in conjunction with the house as ancillary accommodation, and that no separate curtilage shall be formed around the annexe.

The annexe is wholly self-contained, and has separate entrances to the main dwelling. It was created to accommodate Mrs Harding-Wyatt's parents, who have since passed away. The applicants now wish to incorporate it into the main dwelling. As such, it would no longer be a self-contained annexe, and would potentially be in breach of the planning obligation. The reinstatement of the internal link between the two would not however constitute development.

With regards to the relevant test under section 106A, whilst the delegated report is not available online, it is assumed that the purpose of the planning obligation was to ensure that a separate unit of accommodation was not created in the open countryside. The application was assessed against, inter alia, saved policy H8 of the North Wiltshire Local Plan, which relates to residential extensions, and the annex would still read as a residential extension.

The creation of a separate, self-contained dwelling would constitute a material change of use requiring planning permission, which the Council would be able to assess under the relevant policies, and therefore it would still be able to exert control over the creation of a dwelling in the open countryside, and assess any future application under current policy.

In conclusion, the planning obligation to restrict the use of the annexe to ancillary accommodation no longer serves any useful purpose, and the applicant respectfully requests that it be discharged by the Council.

I look forward to hearing from you.

Yours faithfully,

Stokes Morgan Planning Ltd