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<b>APPLICATION NO.</b>	20/03142/VARS
<b>APPLICATION TYPE</b>	VARIATION OF CONDITIONS - SOUTH
<b>REGISTERED</b>	10.12.2020
<b>APPLICANT</b>	Mr Roger Honey
<b>SITE</b>	Banister Park Bowling Club, Stoneham Lane, South Eastleigh, SO50 9HT, <b>CHILWORTH</b>
<b>PROPOSAL</b>	Removal of condition 02 of TVS.1949/7 (Provision of two self-contained flats) which restricts occupancy of the flats to persons employed at the bowling club
<b>AMENDMENTS</b>	None
<b>CASE OFFICER</b>	Mr Paul Goodman

Background paper (Local Government Act 1972 Section 100D)

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## 1.0 INTRODUCTION

1.1 The application is presented to Southern Area Planning Committee in accordance with the Member and Officer Interests Protocol.

## 2.0 SITE LOCATION AND DESCRIPTION

2.1 The application site is situated within the wider sports facility complex to the west of Stoneham Lane. The site is set back a significant distance from the public highway and accessed by a private driveway.

## 3.0 PROPOSAL

3.1 The application proposes the removal of condition 02 of TVS.1949/7 (Provision of two self-contained flats) which restricts occupancy of the flats to persons employed at the bowling club.

## 4.0 HISTORY

4.1 TVS.1949/7 Provision of two self-contained flats - Banister Park Bowling Club, Trojans Sports Ground, Stoneham Lane, Chilworth. Permission subject to conditions - 25/07/88.

## 5.0 CONSULTATIONS

5.1 None

## 6.0 REPRESENTATIONS Expired 15.01.2021

6.1 **1 representation received form The Trojans Club** – Comment;

- Before responding it is worth noting that The Trojans club sold the piece of land to Bannister Park Bowls in the 1980's, and there were two conditions imposed on Bannister Park at the time.
- Firstly that the residency of the flats was restricted to those employed at Bannister Park, and secondly that Bannister Park Bowls would contribute 50% of the cost of the upkeep of the private access lane.

- Bannister Park also state that they are surrounded by new sports development, which is incorrect. Although we have plans to improve our clubhouse, the facilities surrounding Bannister Park have not changed for a number of years. The floodlit artificial turf pitch has been there since the 1980s, and recent works to improve the facility at Hardmoor by Eastleigh Borough Council have mostly just updated what was there originally, and Stoneham Golf Course is largely unchanged..
- We have recently taken freehold ownership of the land shown in their diagram to the north of their facility, with a triangular shape, and own all the land freehold alongside theirs. We have no intention at all of opening this up to public access for a walkway, footpath or any other such public access, and with the lake beyond controlled by Eastleigh and District Angling Club, the ability of anyone from the new houses to get to Trojans, or Bannister Park is totally limited, now or in the future.
- Since the mid 1980's there has been a deliberate expansion of women's and junior sport. Because of the requirements of the national governing bodies that run sport, we have a significant amount of experience and awareness of the needs of child protection.
- The area of the Trojans Clubhouse, Bannister Park and the Hardmoor Playing Fields, are only accessible up a single private lane, with no public access, it is therefore extremely valuable to us to have someone living on site, who has an interest in the well-being of the set of properties.
- We recognise that the group of properties working together are in an isolated location and could be subject to unwarranted behaviour if we did not look out for each other, and we try to be good neighbours to Bannister Park, so it is good to know that the current and historical operation of the club has had no impact on the residents or operation of Bannister Park, even during the operation of the Christmas Parties over a three-year period.
- As a community run sports club similar to Bannister Park we recognise that running such a facility is an extremely complex undertaking for a group of volunteers to do, and have the utmost respect for anyone who takes the time and effort to do so. The financial realities of running such a facility are complex, and additional income streams need to be realised where they can.
- So we would be willing to see one or both of the flats (in time) available for non-employed residential purposes. However, we would wish to see the following conditions applied to any such residential occupation.
- Firstly, that amending this original condition this has no effect on second original condition regarding the 50% contribution by Bannister Park Bowls are required to make to the upkeep of the private access drive.
- Secondly that anyone taking up a residential occupation of the flat is subject to an enhanced DBS check, and any flags are discussed with us and approved by us, prior to acceptance of their tenancy. We have a significant number of children and young people active on site and must ensure that our land, which is isolated, overlooked and shares the same private access road, has some control who is able to be accommodated. There is a significant risk to the wellbeing of our members, guests and visitors otherwise.

- And thirdly that whilst modern alarms and CCTV have made it simpler to manage such an isolated facility from afar, it is still of massive advantage for us to have someone living on site who has an interest in the wellbeing of the facility and the neighbouring facilities. Our final condition is that prior to being advertised on the open market the residential property is offered to us, (without any discount on the market rate) in case any of our staff or volunteer directors wanted to take up the accommodation. We don't anticipate including our membership in this. This would have a significant benefit to all the sporting facilities in the area, including Bannister Park Bowls, as it would mean that someone with an interest in all the facilities was present on site at all times. We think it is unlikely that staff or directors would want to do this, but we consider it important to be given the opportunity first, as to have someone on site with an interest in the facilities would be an enormous benefit, and to lose that would be a wasted opportunity.

## 7.0 POLICY

### 7.1 National Planning Policy Framework (NPPF)

7.2 **Test Valley Borough Local Plan 2016 – COM2 (Settlement Hierarchy), COM10 (Occupation Accommodation for Rural Workers in the Countryside), E5 (Biodiversity), E7 (Water Management), E8 (Pollution), E9 (Heritage), LHW4 (Amenity), T1 (Managing Movement), T2 (Parking Standard).**

## 8.0 PLANNING CONSIDERATIONS

8.1 The condition the subject of this application relates to the occupancy restriction applied to the dwellings. As a result the main planning consideration is the principle of the removal of the restrictive condition.

8.2 The original dwellings were granted permission as 'workers dwellings' in association with the bowling club use of site under application TVS.01949/7. This relationship was formalised by condition 2 of that permission which states;

**The accommodation hereby permitted shall be occupied only by persons employed at the bowling club and shall not be separately occupied, let or sold off.**

**Reason:** Permission would not normally have been granted for residential units in this locality except for the special needs of this case

8.3 Policy COM10 provides for the provision of occupational accommodation for rural workers and the removal of such conditions. The policy states that where the proposal is for the removal of the occupancy condition this will be permitted provided that it can be demonstrated that the dwelling is no longer required to meet the needs of the occupational workers engaged or last engaged in the activity for which the dwelling was originally permitted.

- 8.4 As described above the original permission was for a workers dwelling associated with the bowls club. It would be unusual for a leisure use such as a bowls club to result in a functional need for on-site staff accommodation. . In addition the restrictions of the condition are unusual in that it requires the restricted occupant to be working specifically at the 'bowling club' and not in the vicinity of the site. As a result the condition is more constrained than normal occupancy restrictions in that it does not allow for the dwellings to be occupied by a suitable worker employed outside of the bowling club site or in relation to any other use.
- 8.5 The application is supported by details of the current and historical occupation of the flats. Currently, and for a period of approximately 5 years, the flats have been occupied by the groundsman associated with the bowling club and a tenant with no employment connection to the club. It is indicated that previously it was anticipated that a catering manager would occupy one of the flats but that did not occur.
- 8.6 The decision notice for TVS.01949/7 states that the reason for the condition is that "Permission would not normally have been granted for residential units in this locality except for the special needs of this case." The supporting information associated with that application identifies those special needs as being related to the security of the site resulting from its isolated location at the time.
- 8.7 Notwithstanding that such an application for the two flats on the basis of security would be very unlikely to comply with modern local plan policies there has been a significant change in the degree of isolation at the site. The wider leisure and business uses surrounding the site have expanded since planning permission was granted in 1988 as has the wider character of the area which has been subject to a large amount of residential development to the north, within The Borough of Eastleigh. In addition there have been significant advances in security technology further reducing any need for continuous onsite presence. As a result it is not considered that that there is an ongoing need for the restricted occupation of two flats for security purposes. It is clear from the submission that in recent times both flats have not been occupied by a security employee. Furthermore any security benefit from occupation of the flats themselves would persist if they were to be occupied by a person not employed at the club.
- 8.8 Policy COM10 also states that the removal of an occupancy condition will only be considered if it can be demonstrated that there is no longer a need for the dwelling. This should include contacting landowners and/or business involved in the use for which the dwelling was permitted, in the vicinity of the dwelling to establish whether they require further accommodation. However, as is described above, the non-standard occupancy restriction in this case does not allow for the occupancy of the site by persons not employed at the bowls club. As a result there are no employers in the vicinity that could house workers at the site whilst complying with the restriction.

- 8.9 The representation received from the Trojans Club requests that a condition be imposed requiring the accommodation to be first offered to their employees. Whilst such an arrangement might benefit the Trojans Club, as is indicated above, an employee of that club would not meet the restriction and it would not be appropriate to amend the restriction to require the applicant to accommodate employees of a neighbouring site. Any arrangement on the future occupation of the unrestricted flats would need to be as a result of direct discussions between the bowling and Trojans Clubs and is not material to the determination of the current application. Furthermore, the imposition of such a condition, for the reasons set out above, would not meet the six tests listed at paragraph 55 of the NPPF. Both the NPPF and PPG are clear that planning conditions should be kept to a minimum, and only used where they satisfy the six test.
- 8.10 It is evident from the submission that the dwellings have not been required to meet the security needs of the bowling club for a period in excess of 5 years. As a result there is no evidence that the use at the site generates an essential functional need for the dwellings to be restricted in their occupation. As a result the principle of removing the condition is considered to be acceptable and complies with policy COM10.
- 8.11 **Other matters**  
Section 73 of the 1990 Town and Country Planning Act has regard to the variation of conditions and facilitates the submission of applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.
- 8.12 On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 8.13 The original permission was only subject to two conditions, condition 2 the subject of the application and condition 1 which required development to commence within a period of 5 years. As a result there are no longer any relevant conditions to reapply. The submitted representation has made references to 'conditions' associated with the maintenance of a driveway but these appear to relate to private covenants rather than planning conditions and are not material to the determination of the current application.
- 9.0 **CONCLUSION**
- 9.1 The removal of the occupancy condition is considered to be acceptable and complies with the relevant TVBRLP policies.

**10.0 RECOMMENDATION**

**10.1 PERMISSION**

**Note to applicant:**

- 1. In reaching this decision Test Valley Borough Council (TVBC) has had regard to the National Planning Policy Framework and takes a positive and proactive approach to development proposals focused on solutions. TVBC work with applicants and their agents in a positive and proactive manner offering a pre-application advice service and updating applicants/agents of issues that may arise in dealing with the application and where possible suggesting solutions.**
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