

**Application for removal of Condition No2 of Planning Permission P2365,  
dated 03.04.1985, relating to No6 Spanish Ledge, The Parade, St Marys,  
Isles of Scilly TR21 OLP.**

**Background**

Spanish Ledge comprises two adjoining three-storey houses, built of local granite, with later extensions.

The premises, originally residential houses and later operated as a guest house, were converted into holiday flats in the mid 1980s.

Planning permission (P2365) imposed a condition (No2), which stated:

“That none of the proposed 9 flats shall be used for permanent residential accommodation without further planning permission”.

The reason for imposition of the condition was:

“To be in accord with Policy 6A of the Structure Plan”.

**Reason for Removal of Condition**

Statutory Background

Section 73 of the Planning Act gives applicants a right to make an application to vary or remove a condition. In assessing such applications, regard should be given to Government advice on the use of planning conditions as set out in Circular 11/95. The circular stresses that conditions should only be imposed where they are necessary and reasonable, as well as enforceable, precise and relevant both to the planning and to the development to be permitted.

As a matter of policy, a condition should not be imposed unless there is a definite need for it. The same principles must be applied when considering applications for removal or variation of a condition; a condition should not be retained unless there are sound and clear reasons for doing so.

We also draw your attention to Paragraph 206 of the National Planning Policy Framework 2012 which states that:

“Planning conditions should only be imposed where they are:

- necessary,
- relevant to planning,
- relevant to the development to be permitted,
- enforceable,
- precise, and;
- reasonable in all other respects”.

The newly introduced (March 2014) Planning Practice Guidance makes it clear that ANY proposed condition that fails to meet ANY of these six tests should not be used.

#### Application of the Six Tests to 6 Spanish Ledge

Clearly planning policy, and economic / infrastructure issues, have changed on Scilly since the mid 1980's. Both nationwide, and at our island level, there is a shortage of housing, and an acceptance of the need to provide secure long-term housing for locals.

The relaxation of Condition No2 of the 1985 planning permission would help to address the pressing housing issues on the islands, without involving new development or increasing pressure on infrastructure. In point of fact, my client has several local people interested in acquiring Flat No6, but who are currently prevented from doing so by the restrictive occupancy condition.

We have not been able to source a copy of the Structure Plan prevailing at the time of the original 1985 planning permission. However, the Planning Officer's report into Planning Application P/10/049, which also referred to removal of a planning condition based on Policy 6A of the Structure Plan, made it clear Policy 6A referred to an embargo due to water shortages.

The current local plan contains no such restrictions on development on the basis of water shortages, and numerous planning applications for residential development have been approved in recent years. Furthermore, given the flat already exists, and can be occupied all year around on the basis of short-term lettings there is no reason water consumption will increase as a result of relaxation of Condition No2 of the 1985 permission.

Having regard to the fact that planning policies contained in the Structure Plan in force at the time of the 1985 permission has long been superseded, both regarding housing policy generally and the absence of a restriction on development as a result of water shortages, we would argue that the condition is **neither necessary, nor relevant to planning**.

The current condition prohibits use of the premises as "permanent residential accommodation", but fails to define what this means. Accordingly, we suggest the condition is **imprecise and unenforceable**, and should therefore be removed.

Flat No6 is a bright, airy one-bedroom flat, having good natural light, of regular proportions and with perfectly adequate room sizes. It is perfectly suitable for occupation by either a single person or a couple, and has proven demand for permanent occupation by several local people, who are in regular employment on the islands. The current restriction prohibits such a use, and is therefore **not relevant to the development and unreasonable in all other respects**.

**In conclusion, we therefore believe the restriction should be removed on the grounds that it fails all six of the tests required by Planning Practice Guidance, March 2014.**