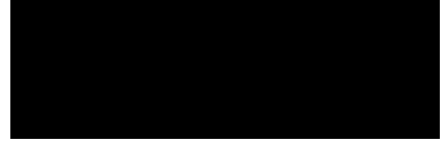




Planning Insight

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Clarence Gate, Clarence Road,
Bognor Regis, P021 1RH
Planning Statement

Clarence Gate, Clarence Road, Bognor Regis, P021 1RH Planning Statement

Contents Amendment Record

This report has been issued and amended as follows:

Issue	Revision	Description	Date	Signed
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1 Introduction

- 1.1 This Planning Statement has been prepared by Planning Insight on behalf of Dependable Homes Ltd and their lessees hereafter referred to as 'the Applicant') to accompany an application to Arun District Council for removal of the section 52 agreement from Clarence Gate, Clarence Road, Bognor Regis, P021 1RH (the 'Application Site').
- 1.2 Permission is sought to remove the agreement signed under application reference number BR/75/87 which restricts occupation of the 7 units on the first floor to those over the age of state retirement.
- 1.3 The application seeks the removal of the agreement in order to allow for wider marketing of the units by the current occupants.

2 Background

- 2.1 The property was developed at 14 flats and 4 commercial units in the late 1980's, with the 7 flats at first floor restricted to retirement age occupants. It has remained largely unaltered since that time. The present application is made on the basis that as statutory retirement age has been incrementally increased the occupants of the units have found it increasingly difficult to find buyers. At present the gap between retirement age and the need for specifically adapted properties is narrow.

3 Description of site and surroundings

- 3.1 The application site is situated in the centre of Bognor Regis.
- 3.2 The subject site is located on the western side of Clarence Road.
- 3.3 The property is a three storey mixed use building, with 4 commercial units at ground floor and 14 flats at first and second floor. There is a car parking area to the rear of the building.

4 Planning Policy

- 4.1 This section of the Statement provides an analysis of the planning policy context in which the proposed development should be considered in accordance with the relevant planning legislation and national policy guidance.
- 4.2 Planning decisions in England and Wales should be taken in accordance with the development plan unless material considerations indicate otherwise. This statutory requirement is set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 4.3 The statutory development plan for Arun consists of:
- Arun District Local Plan (2003): GEN7 The Form of New Development GEN12 Parking in New Development DEV22 Relaxation of Restrictions (Occupation by the Elderly)South Bucks District Local Plan
 - Publication Version of the Local Plan (October 2014): D DM1 Aspects of Form and Design Quality D DM2 Internal Space Standards D DM3 External Space Standards T SP1 Transport

and Development H DM1 Housing Mix, Interim guidance on Residential Parking Standards.

While not forming part of the statutory development plan, the following documents remain important material considerations for the determination of planning applications in Arun:

- National Planning Policy Framework (NPPF) (2012);
- National Planning Practice Guidance (NPPG) (2014);

NATIONAL PLANNING POLICY

National Planning Policy Framework (2012)

- 4.4 On 23 March 2012, the government adopted the National Planning Policy Framework (NPPF). The document provides a consolidated framework of planning policy which replaces most of the previous national Planning Policy Statements and Planning Policy Guidance Notes.
- 4.5 The NPPF outlines the presumption in favour of sustainable development. It further states that permission should be granted for development where a plan is absent, silent, indeterminate or where relevant policies are out of date.
- 4.6 The framework indicates that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes a material consideration in determining applications.

5 Planning Considerations

Principle for Development

- 5.1 This is not an application for planning permission, rather it is a request to vary the obligations of an extant planning permission which was completed and has been occupied for some 30 years.

- 5.2 A Section 52 agreement, made pursuant to Section 52 of the Town and Country Planning Act 1971 is similar to a modern day Section 106 agreement in that it allowed the Local Planning Authority to secure obligations that could not be delivered by planning condition. However, unlike Section 106 agreements, such as have been attached to planning permissions since 1990, there is no ability to make a formal ‘planning’ application to vary the agreement. The request to remove the agreement can only be done so by exchange of letters.
- 5.3 The agreement was entered into in the Council’s capacity as Local Planning Authority, not as landowner, and it is, therefore, in this capacity that any removal of the agreement must be considered, based upon the planning merits of such a request. There are no third parties reliant on the provisions of the agreement who might have an interest in its provisions being maintained. The Council can, unilaterally, agree to removal of the agreement.
- 5.4 The planning permission to which the request relates – referenced BR/85/87 – was implemented within the required time period.
- 5.5 At that time a s52 agreement was entered into, restricting the use of the 7 first floor flats to occupation of persons above “state pensionable age”. The agreement indicates that this related directly to the level of car parking provision on the site. Please see appendix 1.
- 5.6 The agreement does not restrict access to parking permits or control the number of vehicles which are owned by the occupants. All residents of Clarence Court are eligible for parking permits as local residents.

- 5.7 In consultation on similar applications Highways comments have held that “County Highways no longer back this age restriction so the highway justification based on the theory that elderly residents do not drive or require car transport cannot be used to seek retention”. As it stands there remain no useful purpose identified for the obligation.
- 5.8 Lessees at the property have found it increasingly challenging to effectively market their flats, with buyers pulling out of sales due to the age restriction. We attach a letter from Green Wright Chalton Annis solicitors in relation to the attempts to sell flat 11 for Mr D Ashford. Letters of support have also been written by flats 1, 2, 4 and 12. All letters are attached at appendix 2.
- 5.9 The attached letters also highlight that the units do not represent up to date facilities suitable to lifetime homes. The lack of a site warden, emergency pull cords and level access are all concerns for residents. There is no opportunity to fit these features within the existing building.
- 5.10 **POLICY DEV22 RELAXATION OF RESTRICTIONS RELATING TO OCCUPATION BY THE ELDERLY:** The amendment of planning agreements or Planning Obligations relating to units of accommodation for persons over state pensionable age will not be agreed unless the development remains in accordance with other policies in this plan in particular:
- (i) adequate parking, amenity space and public open space to the standards required by unrestricted accommodation is provided and;

- (ii) in cases where only a proportion of units are to be de-restricted, a satisfactory environment is maintained for those units that remain restricted under the terms of the legal agreement.

- 5.11 In this case, it is considered that the overall character of the development will be maintained. These units are the only age restricted units within the block and as such removing the restriction will not impact any restricted unit. The development is a block of 14 flats and 4 commercial units which has no amenity space and 17 car parking spaces. The internal and external space standards will not be impacted by a change in the age of the occupier of the flat. The change of occupancy is not considered to result in any significant loss of residential amenity to the remaining residents of the flats particularly as 7 flats have no age restriction.
- 5.12 As the property has always been occupied by a mixture of age groups residents concerns relating to noise and nuisance from younger residents are already addressed. Any refusal would be subject to an appeal to the Lands Tribunal which the Council would find difficult to defend.
- 5.13 Since the agreement was signed, car parking standards have been adjusted downwards. County Highways have raised no objections to the similar modifications to the Planning Obligations on other units. The site is sustainably located within a 10 minute walk of a railway station and bus routes which reduces the need for travel by car.
- 5.14 It is considered that the removal of this Planning Obligation is in accordance with policy.

5.15 As the age restriction is the only operative clause in relation to the s52 agreement is it requested that the agreement be removed entirely from the property as it will no longer serve a useful purpose.

6 Conclusion

It appears that this restriction was imposed due to concerns about the adequacy of parking provision onsite. There may not have been sufficient parking at the time of the application. Restricting occupation to the elderly meant that the parking standards could be relaxed. However, it also clear from the planning application that the scheme was not solely for retirement housing and as such the restriction was not imposed in order to meet specific housing needs.

In this case, it is considered that the proposal is in accordance with Policy DEV22. The obligation and the agreement as a whole no longer serves a useful purpose and as such should be removed.