

Recommendation Report for Removal of a Planning Obligation

REF NO: BR/130/18/PO

LOCATION: Flat 1-7 Clarence Gate
Clarence Road
Bognor Regis
PO21 1RH

PROPOSAL: Application to remove a planning obligation dated 18th September 1987 under planning reference BR/75/87/ relating to age restriction.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application requests the modification of a Planning Obligation made under S52 of the Town and Country Planning Act 1971, to enable the property Clarence Gate to be occupied by persons of any age instead of the current restriction resulting from the modified agreement which currently allows occupation by any person of retirement age. A 3 storey building comprising 14 flats & 4 commercial units at lower ground level. Under the Section 52 Agreement, out of the total 14 flats, 7 were originally restricted to those of state pensionable age. The agreement was made on 18-09-87. The 7 restricted flats were numbers 1 to 7 (all located on the 1st floor).
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	The building faces directly onto the pavement.
SITE CHARACTERISTICS	The site is occupied by an L-shaped block of two storey flats of no particular architectural merit. There are 17 car parking spaces provided by the inner court yard.
CHARACTER OF LOCALITY	The site is located on a residential road that is characterised by high density residential use with nearby buildings generally being a mixture of two storey terraced dwellings and blocks of two and three storey flats. The site is set on a corner plot where the High Street meets Clarence Gate.

RELEVANT SITE HISTORY

BR/75/87	Redevelopment to provide 4 no retail shops, 4 x 2-bedroom old persons flats, 3 x 1-bedroom old persons flats, 4 x 2-bedroom flats, 1 x 1-bedroom flat, 2 x 3	Approve Conditionally 18-09-87
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bedroom maisonettes and ancillary car parking
accommodation

Officers note that none of the flats have had the obligation discharged to date.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council

Bognor Regis: No Objection.

Two objections have been received that state:

- removing the restriction is not good for all the residents.
- The advertisement is inaccurate and does not identify the actual flats, which do have restricted use.
- the reason for the Section 52's are still vital to ensure that retired people, who wish to give up their car and live close by the town they live in, should be able to do so.
- To take this protection away in this day and age, would very quickly cause major problems on a daily basis for the retired people who live there now.
- the building is very quiet and charming and needs to remain so for the welfare of our elderly.

Two letters of support suggesting -

- occupier of no.7 always thought it strange that flats on the first floor should be restricted when those on the ground floor and below are not - and offers a better range of access and facilities for less able bodied residents
- as there are unrestricted and restricted flats in the building occupied by families with children, the building is not exactly a retirement block
- it is not clear how removing the age-restriction would have any negative effect on the residents?
- in addition those occupiers with age restricted flats are having problems selling them - support should be given to those - as many now require to be able to move to proper retirement accommodation.
- Clarence gate was built at a time without reasonable retirement features eg (warden, alarms, ramp access etc) - the space standards and design and layout of the building does not lend itself to the proper installation of these.
- only known building where flats on 1st floor are age restricted, but the rest are not.
- other age-restricted blocks I know of have all flats age-restricted so the residents will not have to live with families, children, young single people etc.
- no concern that removing the age-restriction might change the already-fluid demographics of the block
- with the proliferation of proper retirement blocks in Bognor over the last 30 years, it is now very apparent that it is outdated and negatively impacting leaseholders.
- now near-impossible to sell as buyers opt for newer-build properties with more amenities
- the restriction refers to state pensionable age; with this rising, the problem will only increase
- Clarence Gate's restriction would free up seven ideal first homes, letting them remain close to their families, help prevent brain-drain and the further greying of the town.

COMMENTS ON REPRESENTATIONS RECEIVED:

All reps are noted and discussed in the conclusions section of the report. The comment referring to the inaccurate information is an interpretation by the tenant as the planning history of the site is clear in that

it specifies flats 1-7 only.

CONSULTATIONS

WSCC Strategic Planning

CONSULTATION RESPONSES RECEIVED:

WSCC Highways:

The age restriction is imposed on 7 of the 14 flats on site. The site has been within residential use for some time with allocated parking for residents. The removal of the age restriction condition from these flats is not anticipated to cause a material intensification of use of the site and access.

The LHA does not consider that the proposed development would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Designation applicable to site:

Within Built-Up Area Boundary
Planning Obligation

DEVELOPMENT PLAN POLICES

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
HDM1	H DM1 Housing mix
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
TSP1	T SP1 Transport and Development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan

or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton.

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

There are no relevant Bognor Regis Neighbourhood Plan Policies.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the availability of parking spaces, the residential amenities of the adjoining properties and nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE:

This application is for the removal of an age restriction on 7 flats, of which were originally age restricted for the occupation of persons over state pensionable age. The restriction was imposed under a Section 52 Agreement following the approval of BR/75/87. This restriction was imposed since any future change of use from elderly occupation to unrestricted occupation would require a greater number of car parking spaces in accordance with the Council's adopted car parking standards. However, there are other material planning considerations that must be taken into account, particularly the potential impact of removing the age restrictions on the tenure mix and current parking considerations. There are other flats within the development that are occupied by younger residents and it is not considered the removal of the age restriction would adversely affect the residential amenity of existing residents to a material extent.

RELAXATION OF RESTRICTIONS RELATING TO OCCUPATION BY THE ELDERLY:

Officers note the planning agreement was made on the basis of Planning Obligations relating to units of accommodation for persons over state pensionable age or for husbands or wives or spouses below pensionable age following the death of those residing with those of pensionable age. Other restrictions to the agreement suggests not to use the flats for any other purpose which would give rise to greater provision of number of car parking spaces, in accordance with the councils adopted car parking standards.

Officers note that following the adoption of the current Arun Local Plan 2011-2031 The current Local Plan states that:

'Arun has one of the highest older populations (people aged 60+) when compared to other local authority areas within the County. Comparatively speaking, Arun also has a low proportion of people aged under 45 living within the District.'

Therefore, planning should seek to achieve further accommodation (housing) for the older population

The Arun Local Plan also states that:

"Having regard to the age profile of the District, the Council recognises the need to support the provision of continuing care facilities for the elderly which may take the form of any of the following:
Own homes (designed to meet the needs of the elderly), Sheltered housing, Day care facilities
Nursing homes, and Specialised care units"

Notwithstanding the objection of the Local Plan supporting text, the flats in question are located on the first floor of Clarence gate and are of a size and layout that do not lend themselves to being easily adapted in order to meet the modern standards for much needed age restricted housing tenure.

The letters of support and objection are noted, this is a block of residential units that have a mixed tenure with an equal split of age restricted flats and those that are unrestricted. The age restriction relates to units on the first floor only, therefore the requirement for accessible units for elderly residents appears to be undermined by virtue of their location. This coupled with the lack of an adaptable design lends itself to lifting the condition for practical reasons.

Officers note that a number of other age restricted residential properties (flats) have had their age restriction removed within the district. Having regard to this and that County Highways no longer back these age restrictions, Officers consider that age restrictions of this type are no longer appropriate or necessary and as such a policy for the relaxation of restrictions relating to occupation by the elderly is not required and has been removed from the Adopted Local Plan (2011-2031).

Therefore, while the provision of accommodation for the older/elderly population is important, it is considered that the removal of such a condition could be deemed appropriate following by an assessment regarding parking and highway safety, amenity space, noise etc.

In this case, it is considered that the overall character of the development will be maintained. The development is a block of 14 flats which has no amenity space and 1 area of car parking (17 spaces in total). Since the agreement was signed, car parking standards have been adjusted downwards. County Highways have raised no objections. The site is sustainably located near to a railway station and bus routes, and the Town Centre which reduces the need for travel by car. Additionally there are car parks and unrestricted on street parking in close proximity to the site to allow for parking for future residents.

It is considered that the removal of this Planning Obligation is in accordance with Policy.

CONCLUSIONS:

It is considered that the change of tenure will not result in any significant loss of residential amenity and allocated car parking is provided for up to 17 cars. The removal of the Planning Obligation in this case will be in accordance with policy. It is therefore recommended that this be approved.

HUMAN RIGHTS ACT

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE