

Recommendation Report for Removal of a Planning Obligation

REF NO: BR/243/21/PO

LOCATION: Flat 4 Anglesea Court
11 Victoria Road South
Bognor Regis
PO21 2AA

PROPOSAL: Application under S106A (3) to modify the age restriction obligation on the legal agreement dated 6th April 1987 linked to planning permission BR/517/85

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 Flat 4 Anglesea Court to be occupied by persons of age of 55 (fifty five) or over instead of the current restriction resulting from the modified agreement which currently allows occupation by any person of retirement age.
BOUNDARY TREATMENT	Brick walls to sides, timber panel fence to the rear and dwarf wall to front.
SITE CHARACTERISTICS	Two storey flatted property, red brick, gabled roof with concrete tiled roof situated on the western side of Victoria Road South within the Conservation Area Aldwick Road. The block comprises 4 flats.
CHARACTER OF LOCALITY	Predominantly residential area in between Aldwick Road and Bognor Regis Promenade with the Bognor Regis Sailing Club and Grade II Listed Building Culver Cottage on the opposite side of Victoria Road South and Locally Listed Buildings to the rear (Park Road) and to the south.

RELEVANT SITE HISTORY

BR/106/20/PO	Application to modify Planning Obligation dated 06/04/87 under Planning Reference BR/517/85 relating to age restriction.	Approve 29-06-20
BR/316/19/PO	Application to discharge a Planning Obligation dated 06/04/1987 under Planning Reference BR/517/85 relating to age restriction.	Approve 06-01-20
BR/222/11/PO	Application to discharge a planning obligation dated 6th April 1987 under planning application ref no: BR/517/85/	Approve 02-12-11

relating to age occupancy restriction

BR/517/85

Proposed 2 Storey Development Of Four 1 Bed Flats For The Elderly

ApproveConditionally
06-04-87

The age restriction obligation on the legal agreement dated 6th April 1987 linked to planning permission BR/517/85, clause 3A /age restriction has been modified with regards to flats 1 and 3 Anglesea Court, 11 Victoria Road South.

REPRESENTATIONS

No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

N/A

CONSULTATION RESPONSES RECEIVED:

None.

COMMENTS ON CONSULTATION RESPONSES:

N/A

POLICY CONTEXT

Designation applicable to site:

2km Buffer of SSSI Bognor Reef
Pagham Harbour Access Management Zone B
Conservation Area Aldwick Road, Bognor

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
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 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

There is no relevant policy within the Bognor Regis Neighbourhood Development Plan to be considered assessing this application.

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 impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE:

This application is for the modification of an age restriction on one flat which is part of a group of 4 flats, originally age restricted to occupation of state pensionable age. The restriction was imposed under a S52 Agreement following the approval of BR/517/85. This restriction was imposed since any change from elderly occupation to unrestricted occupation would have required a greater number of car parking spaces in accordance with the Council's adopted car parking standards at the time. There are other material planning considerations that must be taken into account, particularly the potential impact of younger people occupying units amongst those that are subject to age restrictions and open space considerations. It is not considered that the modification of the age restriction would adversely affect the residential amenity of residents to a material extent given the other flats within area occupied by younger residents.

It is suggested that there is no useful purpose identified for the obligations. Noise and nuisance from younger residents can be addressed via landlord management of covenants for quiet enjoyment.

RELAXATION OF RESTRICTIONS RELATING TO OCCUPATION BY THE ELDERLY:

The Local Plan at para.12.6.1 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 states at para. 12.6.2 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'

Flat 3 Anglesea Court has had its age restriction removed through BR/222/11/PO and flat 1 through BR/106/20/PO. Having regard to this 2 flats from 4, it is considered 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.

While the provision of accommodation for the older/elderly population is important, it is considered that the aforementioned age restriction policy is not considered appropriate. The modification of such a condition is acceptable following the appropriate assessment regarding parking and highway safety, amenity space, noise etc, especially if the modification is restricting an occupancy for persons of 55 of age or over.

The overall character of the development will be maintained. The development is a block of four 1 bed flats with no amenity space and car park in the rear yard (not allocated but on the base first come first served). Internal 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 a significant loss of residential amenity to the remaining residents particularly as 2 of the 4 has no age restriction.

The site is sustainably located on bus routes and within a reasonable walking distance from the railway station which reduces the need for travel by car. In terms of residential amenity space there are parks and Bognor Regis Promenade within 97m.

CONCLUSIONS:

The change of tenure will not result in significant loss of residential amenity and car parking given the fact that all 4 flats within property are one bed as such not suitable for families For reasons given above it is considered that the modification of this Planning Obligation is in accordance with relevant policies of the Arun Local Plan. It is therefore recommended that this be approved.

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